

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 5628 of 2011

DATE OF DECISION :- October 15, 2015

Union of India and others

...Petitioners

Versus

Surinder Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. Nitin Kumar, Advocate for the petitioner.

Mr. K.B. Sharma, Advocate for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

M.JEYAPPAUL, J.

1. The 1st respondent Surinder Kumar filed Original Application No. 586-HR-2008 to quash Annexure A1 dated 25.2.2008, declaring that the 1st respondent herein as senior to the 2nd respondent herein. Consequentially, he has also sought for promotion to the cadre of Assistant Signal Telecom Engineer from the date when the 2nd respondent was promoted with all

consequential benefits including arrears of pay.

2. We heard the submissions made on either side.

3. On a careful perusal of the order passed by the Tribunal, we find that paragraph 215 of “Indian Railway Establishment Manual, Volume-I, Section 'B', Rules governing promotion of Group 'C' staff” had weighed in the mind of the Tribunal while deciding the issue as to whether the 1st respondent was entitled to promotion at par with the 2nd respondent purely on the basis of merit. Of course, paragraph 215 of the above Rule which would apply for promotion of Group 'C' staff speaks of selection for promotion on merit.

4. But we find that the Tribunal has lost sight of the fact that the respondents 1 and 2 herein in fact competed for promotion post which fell under Group 'B' and not Group 'C'. A separate selection procedure for promotion of Group 'B' post is found under “Indian Railway Establishment Manual, Volume-I, Chapter II, Rules governing promotion of subordinate staff Section A promotion of Group 'B' post”. The selection process for the promotion of Group 'B' Post has been specifically referred to under paragraph 201.1, 204.1, 204.8 and 204.9 of the above Rules.

5. On a careful perusal of the judgment, we find that the Tribunal having wrongly referred to paragraph 215 of the Rules which would be applicable for the promotion of Group 'C' post has decided the contentious issue as regards his promotion to the post of Group 'B' post raised by respondent 1.

6. In view of the above facts and circumstances, the impugned judgment passed by the Tribunal is set aside and the matter stands remanded to the learned Tribunal, with a direction to hear arguments of the parties afresh and pass judgment in the light of the above observations made by us.

7. The Writ Petition is accordingly disposed of.

8. Both the parties shall appear before the Tribunal on 5.11.2015.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

October 15, 2015

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