IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 107+248

Case No. : C. W. P. No. 3954 of 2014 (O&M)

Date of Decision : April 07, 2015

Jagjit Singh (JE) and another .... Petitioners

Vs.

Punjab State Power Corporation Limited and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Balraj Singh Rathee, Advocate
for the petitioners.

Mr. Amit Aggarwal, Advocate
for the respondents.

* * *

DEEPAK SIBAL, J. :

C. M. No. 4460 of 2015 :

Through the present application, the applicants/petitioners seek to place on record the replication to the written statement filed by respondents no. 1 to 4.

Allowed as prayed for.

Main Case :

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The petitioners have knocked the doors of this Court seeking issuance of a direction to the respondents to accept their qualifications as equivalent to a Degree in Engineering and thereafter, consider and promote them as Assistant Engineers against the posts reserved for Junior Engineers holding Degrees in Engineering, as per Regulation 10.7 of the Punjab State Electricity Board, Service of Engineers (Electrical) Regulations, 1965 (hereinafter referred to as – the Regulations), with all consequential benefits.

Petitioner no. 1 served the Indian Navy from 04.09.1973 to 30.11.1989. Thereafter, on 09.04.1991, he joined the service of the respondent – Punjab State Power Corporation Limited (hereinafter referred to as – the Corporation) as a Sub Station Attendant. On 20.12.2000, he was promoted to the post of Junior Engineer – the post which he holds till date.

So far as petitioner no. 2 is concerned, he served the Indian Air Force from 22.04.1981 to 30.04.2001. Thereafter, on 25.05.2010, he was directly recruited as a Junior Engineer with the respondent Corporation and till date, he continues to serve the respondent Corporation on that post.

The post of Junior Engineer is one of the feeder cadre posts for promotion to the post of Assistant Engineer and the relevant Regulation, which governs the promotion to the post of Assistant Engineer is Regulation 10.7, which is reproduced below for ready reference :-

> *"14% of the cadre posts of A.Es. shall be reserved for departmental*

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> *employees (Technical Subordinates and Drawing Staff) possessing AMIE/Degree in Electrical/Electronics and Communication/ Mechanical/Instrumentation Control/ Computer Science Engineering and who have completed three years service in that capacity."*

The above quoted Regulation clearly provides that 14% of the cadre posts of the Assistant Engineers shall be filled up from departmental employees (including Junior Engineers) possessing AMIE/Degree in Electrical/Electronics and Communication/Mechanical/Instrumentation Control/Computer Science Engineering and who have completed three years of service.

After having served the respondent Corporation for three years as Junior Engineers, the petitioners represented to the respondent Corporation to consider their case for promotion under the above reproduced Regulation. When their representations went undecided, the petitioners were forced to serve upon the respondents a legal notice, but when that too went unresponded to, it forced the petitioners to knock the doors of this Court through the present writ petition, for the reliefs as mentioned above.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

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As per facts brought on record, the only ground, on which the case of the petitioners has not been considered for promotion to the post of Assistant Engineers under Regulation 10.7, as reproduced above, is that the petitioners are not possessing Degrees in Engineering.

It is undisputed that both the petitioners are Diploma holders in Electrical Engineering and had served the Indian Navy and the Indian Air Force respectively on the technical side for at least ten years and that being so, as per the notification of the Government of India, Ministry of Education and Social Welfare (Department of Education Technical) dated 26.05.1977, their above said Diplomas were liable to be recognized as equivalent to degrees in Engineering. The notification of the Government of India dated 26.05.1977 is reproduced below for ready reference :-

> *"On the recommendations of the Board of Assessments for Educational Qualification of Defence Director (Tech.), the Government of India have decided to recognize a Diploma in Engineering in appropriate discipline plus total 10 years of technical experience in the appropriate fields is recognized as equivalent to DEGREE IN ENGINEERING. It is considered valid for the purpose of selection of Gazetted posts and services under the*

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Central Government or State Government.

[Emphasis supplied]"

Admittedly, the petitioners possess a Diploma in Engineering along with more than 10 years of technical experience in the relevant field. Thus, their respective Diplomas, as per the above referred notification of the Government of India dated 26.05.1977, are to be considered equivalent to Degrees in Engineering entitling them to be considered for promotion as Assistant Engineers, as per Regulation 10.7 of the Regulations.

In fact, the issue, with regard to treating the Diplomas, as possessed by the petitioners to be equivalent to Degrees in Engineering, after ten years of technical experience, as per the notification of the Government of India dated 26.05.1977, as reproduced above, is an issue, which is no longer res integra. In this regard, the judgment of this Court in **C. W. P. No. 12505 of 2009** titled **Rohtash Kumar Nehra and another vs. Union of India and others**, decided on 15.07.2010 can be usefully referred to. Paragraph 4 of the judgment, which is relevant, is reproduced below :-

> **"***As far as the recognition of the petitioners' qualification by respondent No.4 is concerned, suffice it to say that once the Diploma along with the requisite technical experience possessed by the petitioners is formally treated equivalent to*

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the 'Degree in Engineering' by the Government of India, respondent No.4 shall also be obligated in law to recognize and accept the said qualification as equivalent to Degree in Engineering. The writ petition is disposed of with a further direction to respondent No.4 to treat the petitioners as Degree holders for all intents and purposes."

To the same effect is the judgment of this Court rendered in **C. W. P. No. 7955 of 2010** titled **Lal Chand Jangra vs. State of Haryana and others**, decided on 21.12.2010, wherein this Court had held as under :-

"All the petitioners are Ex-serviceman having served in the Air Force/ Navy in the Technical stream. The petitioner-Lal Chand Jangra in CWP No 7955 of 2010 is serving as Junior Engineer since 25.02.2004. Petitioner - Sant Kumar is serving as Junior Engineer since 02.08.2004 whereas petitioners in CWP No. 10429 of2010 are also serving as Junior Engineer since the year 2004. Next

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promotion from the post of Junior Engineer s to the post of Assistant Engineer. The same is governed by the statutory regulations. Regulation 9 deals with the recruitment to the post of Assistant Engineer. The said regulation provides that recruitment to the post of Assistant Engineer shall be 55% by direct recruitment and 35% by promotion from General Cadre. Out of 35% promotional quota, one of the source is from amongst Engineering Subordinate of General Cadre possessing AMIE/BE qualification and having 3 years service as such. 12½% vacancies are reserved for this category in promotion. Since the qualification is Degree in Engineering, the petitioners claim that they possess the requisite qualification. It is admitted position that the petitioners are Diploma holders and have served in Technical stream in the armed forces referred to above. Petitioners rely upon Government of India notification dated 26.05.1977 where under

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qualification of Diploma in Engineering in appropriate field is recognized as equivalent to Degree in Engineering. The aforesaid notification dated 26.05.1977 is reproduced as under:-

"No. F 16-19/75/T-2
(Ministry of Education & Social Welfare
Deptt. of Education Technical)
New Delhi 110001

Dated 26 May, 1977

Sub: Recognition of Technical Professional Qualification

On the recommendation of the Board of Assessment for Education Qualifications and recommendation of Defence Director (Tech.), the Government of India have decided to recognize a Diploma in Engineering in appropriate discipline plus total ten years of technical experience in the appropriate fields is recognized as equivalent to degree in Engineering. It is considered valve for the purpose of selection to Gazette posts and services under the Central Government or State Government."

All the petitioners have placed

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on record certificates from their respective Commanding Officers to establish that they are possess of Diploma in the relevant field and have served more than 10 years in the Technical Stream in the Armed Forces. On the strength of the aforesaid documents, the petitioners claim to be qualified and eligible for consideration for promotion against 12½% promotional quota. Petitioners have also specifically averred that even after promotion of their juniors, a number of vacancies of Assistant Engineers in their stream are lying vacant. It seems that the respondents started verification of the qualifications of the petitioners from the Air Force record office and vide the communication dated 12.03.2010, the Superintending Engineer/Administration-II, Haryana Vidyut Prasaran Nigam Ltd. has been informed that the diploma of engineering in appropriate discipline plus 10 years of Technical experience is equivalent to Degree in Engineering. not

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only that even the qualification of the petitioners has been verified and communicated to the respondents. The grievance of the petitioners is that despite verification of their qualifications, they are not being considered for promotion to the post of Assistant Engineer.

In view of the above, these petitions are allowed. Respondent Nigam is hereby directed to treat the qualification of the petitioners equivalent to Degree in Engineering and consider them for promotion to the post of Assistant Engineer against the available vacancies within a period of two months from the date a certified copy of this order is received by the competent authority and if the petitioners are found, otherwise, eligible, they be accordingly granted such promotion.

*Copy of this order be placed on record of each concerned file.***"**

The judgment of this Court in **Lal Chand Jangra's** case ***(supra)***, as reproduced above, was challenged in an intra-court appeal being

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Letters Patent Appeal No. 1495 of 2011, but the appeal was dismissed by the Division Bench through judgment dated 27.09.2011, while holding as under :-

> ***"7.*** *A perusal of the Memo shows that Diploma in Engineering in the appropriate discipline is to be recognized equivalent to degree in Engineering, provided that after acquiring the diploma the concerned candidate is required to acquire 10 years of technical experience in the appropriate field. It has no where been provided that the 'Diploma in Engineering' should have been possessed by the candidate at the time of entry into the service. The same could have been acquired even during the service. It is evident from the communication received from the armed authorities that all the petitioner-respondents have been awarded diploma in different disciplines. Thereafter they have also acquired 10 years technical experience in the appropriate field. The communication so received was not challenged by the*

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appellants either before the learned Single Judge or in these appeal. Therefore, the learned Single Judge rightly observed that the diplomas so acquired by the petitioner-respondents were to be recognized as equivalent to degree in Engineering, making them eligible for promotion to the post of Assistant Engineer.

8. *We do not find any legal infirmity in the order passed by the learned Single Judge and the same is hereby upheld. These appeals being devoid of merit are hereby dismissed."*

Special Leave Petition being **S. L. P. No. 2876 of 2012**, filed against the above quoted decision of the Division Bench of this Court was also dismissed by the Apex Court vide order dated 12.03.2012.

The above referred decisions were followed in another recent judgment of this Court in **C. W. P. No. 10974 of 2012** – **Ram Chander vs. HPGCL and others**, decided on 18.03.2015, wherein this Court has held as under :-

"Learned counsel for the petitioner has argued that the matter is no longer res-integra. He has relied upon the

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decisions of this Court in Rohtash Kumar Nehra and another vs. Union of India and others, CWP No.12505 of 2009, decided on 15.7.2010, Lal Chand Jangra vs. State of Haryana and others, CWP No.7955 of 2010, decided on 21.12.2010, and Haryana Vidyut Parsaran Nigam Limited vs Sant Kumar and others, LPA No.1493 of 2011, decided on 27.9.2011. In all these judgments, different Benches of this Court have held that it was incumbent upon the respondents therein to recognize the qualification of such ex-servicemen (as the petitioners) as being equivalent to degree. The decision in LPA No.1493 of2011 (supra) was carried by the respondents therein to the Hon'ble Supreme Court and their Lordships dismissed the Special Leave Petition. Counsel for the respondents has not been able to cite any contrary judgment. The decisions of this Court, as referred to above, are binding upon me.

In these circumstances, this

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> *writ petition is allowed and the respondents are directed to accept the claim of the petitioner and grant him seniority and all other consequential benefits from the date his juniors have been promoted. The necessary exercise be conducted within a period of two months from the date of receipt of a certified copy of this order.***"**

No judgment to the contrary has been shown to me by the counsel for the respondents.

In view of the facts mentioned above and the settled position of law, I have no hesitation in holding the petitioners to be eligible for being considered for promotion to the post of Assistant Engineers under Regulation 10.7 of the Regulations and after holding so, I direct the respondents to consider and promote them from the date their juniors have been promoted, with all consequential benefits. The necessary exercise be conducted within a period of two months from the date of receipt of certified copy of this order.

The writ petition stands allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

April 07, 2015
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