

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

LPA No.800 of 2013(O&M)

Date of decision: May 12, 2015

Punjab State Power Corporation Limited

----Appellant

Versus

Chittin Singh and others

----Respondents

**Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Gurinder S. Lalli, Advocate
for the appellant.

Mr.Rajeev Anand, Advocate for
respondent No.1.

Mr.O.P.Sharda, Advocate for
respondent No.3.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 19.2.2013 passed by the Learned Single Judge, whereby, CWP No.1410 of 2011 filed by the respondent No.1 Chittin Singh praying for directions to quash the appointment of respondents No.3 and 4 (Sukhraj Singh and Kuldeep Singh respectively) and further directing that he be considered and appointed to the post of Junior Engineer (Electrical) being a son of the freedom fighter, was allowed.

The appellant – Punjab State Power Corporation Limited

advertised various posts, including 225 posts of Junior Engineer (Electrical) vide advertisement dated 9.1.2009 (Annexure P-1). As per the advertisement, the reservation was to be made for various categories as per the policy of the Government of Punjab, as adopted by the appellant from time to time. In terms of the said reservation policy, two seats were reserved for dependants of freedom fighters. A written test was to be conducted and the selection was to be made on the basis of the merit in the written test only. As per instructions of the Government of Punjab dated 22.5.1989 (Annexure P-5), which admittedly are being followed by the appellant, the sons and daughters of the freedom fighters are to be given preference for grant of various concessions. If the sons and daughters of freedom fighters are not available, the grand-children may be considered for the said purpose.

Respondent No.1 being the son of a freedom fighter applied for the post of Junior Engineer (Electrical) under the category of Freedom-Fighter. Without any objection being raised by the appellant he was permitted to take the test. Thereafter, in the merit list (Annexure P-4) in the sub-category of freedom fighters, his name appeared at Sr.No.7. It was the case of the respondent No. 1 that in the said list (Annexure P-4), the petitioner was the only candidate who was the son of a freedom fighter and all the other candidates were either grand-sons or grand-daughters of freedom fighters. However he was not offered appointment, rather respondents No.3 and 4, who figured at Sr.No.1 and 2 respectively, in the said merit

list were offered appointment. When despite his repeated requests, respondent No.1 was unsuccessful in securing appointment, he filed CWP No.1410 of 2011, which was allowed vide the impugned judgment.

The appellant did not deny the applicability of the instructions (Annexure P-5), as per which, a son or a daughter of a freedom-fighter is to be given preference over the grand-children of freedom-fighters, in the grant of various concessions, including for appointment in services. The appellant had however, contested the writ petition, taking the ground that respondent No.1 did not attach any proof or document in support of his claim to be eligible in the category of freedom fighter with his application form.

The Learned Single Judge rightly did not agree with that contention as the name of respondent No.1 figured at Sr.No.7 in the result of the sub -category of freedom fighter (Annexure P-4). It was held that if respondent No.1 had not indicated his category along with his application form, then it is not understandable as to how his name figured in the said list, meant for freedom fighter category. Moreover, neither before the Ld. Single Judge nor in the present appeal had the appellant argued that at any stage, respondent No.1, had been asked to produce any document to substantiate his claim that he was son of a freedom fighter, which he was unable to supply. The factual position that respondent No.1 is the son of a freedom fighter and respondents No. 3 and 4 are grandchildren of freedom fighters was neither disputed before the Ld. Single Judge nor has been

disputed in the present appeal. Based on the instructions (Annexure P-5) the learned Single Judge quashed the appointment of respondents No.3 and 4 on the posts of Junior Engineer (Electrical) and directed that case of respondent No.1 be considered for appointment as Junior Engineer (Electrical) on the basis of the result under the category of freedom fighter, over and above the grand-children of freedom-fighters.

Learned counsel for the appellant has strongly assailed the judgment of the Learned Single Judge. However, he has not been able to point out any illegality in the same, in the face of the instructions (Annexure P-5), as per which, the sons and daughters of freedom fighters are to be given preference over the grand-children of freedom fighters. It has, however, been pointed out that respondent No.1 was the sole petitioner in CWP No.1410 of 2011, yet, while directing that he be considered for appointment as JE(Electrical), the Learned Single Judge quashed the selection of two persons namely respondents No.3 and 4. Further with reference to the affidavit dated 30.6.2014 of Sh.Rakesh Kumar Bawa, Deputy Secretary Recruitment PSPCL, it has been stated that initially two candidates namely respondents No.3 and 4 were offered appointment on the basis of the written test. After the offer, only respondent No.3 joined the post, while another candidate, respondent No.4 did not join. Due to non-joining of respondent No.4, third candidate in the merit list, namely Ramanpreet Kaur Chauhan was offered appointment and she has joined as such. It is

hence argued that while accepting the claim of the respondent No.1 and directing that he be considered for appointment, out of the two candidates appointed in the freedom fighter category the selection of only one candidate who was lower in merit ought to have been quashed.

This plea of the appellant merits acceptance.

Accordingly, the order of the Learned Single Judge is modified to the extent that of the two candidates who had been appointed in the Freedom Fighter category, the selection and appointment of the candidate who is lower in merit is quashed.

Appeal is disposed of with the above modification.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

May 12, 2015

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