

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF
PUNJAB AND HARYANA, AT CHANDIGARH**

Letters Patent Appeal No. 1262 of 2015 (O&M)

Date of Decision: August 28, 2015

Om Parkash Chopra

---Appellant

Versus

Gurinder Singh Chahal and others

---Respondents

CORAM: Hon'ble Mr. Justice Satish Kumar Mittal

Hon'ble Mr. Justice Mahavir S. Chauhan

Present: Shri D.S. Patwalia, Senior Advocate with Shri Sehajbir Singh,
Advocate, for the appellant.

1. *Whether Reporters of local papers may be allowed to see the judgment? Yes/No*
2. *To be referred to the Reporter or not? Yes/No*
3. *Whether the judgment should be reported in the Digest? Yes/No*

Mahavir S. Chauhan, J.

This intra court appeal brought by the appellant under Clause X of the Letters Patent is directed against order dated December 05, 2014 whereby the learned Single Judge has allowed Civil Writ Petition No. 23675 of 2012 preferred by the first respondent and has quashed order dated July 16, 2007 (Annexure P12) whereby the appellant was promoted as Superintending Engineer (against reserve point).

02. The appeal is barred by time and the appellant has brought an application for condonation of delay in filing the appeal. However, we have heard learned senior counsel for the appellant on merits.

03. Learned senior counsel representing the appellant has painstakingly contended that the impugned order must go because it has been passed by overlooking the fact that the certificate of membership issued in favour of the appellant by Institution of Mechanical Engineers (India), Mumbai, has been recognized by the Government of India for employment vide notification dated November 24, 2006 (Annexure R5/1), and Government of Punjab, vide letter dated September 11, 1964 (Annexure R5/2), has ordained that technical/professional qualifications recognized by the Government of India for purposes of employment to the services and posts under the Central Government be considered to have been recognized by the State Government for the purposes of employment to the services and posts in appropriate fields under them.

04. No other and further point has been urged.

05. It has not been disputed before us that service conditions of the appellant are governed by the Punjab State Agricultural Marketing Board (Class-I) Services Rules, 1988 (for short, 'the 1988 Rules') and that Appendix 'B' attached to these rules requires that for promotion to the post of Superintending Engineer one has to have a "Degree in Engineering and should have an experience of working as an Executive Engineer in the Board for a minimum period of seven years". Concededly, the appellant does not possess a Degree in Engineering. Contention of the learned senior counsel appearing for the appellant is that the certificate of membership issued in favour of the appellant by Institution of Mechanical Engineers (India) having been recognized by Government of India for employment vide notification dated November 24, 2006 (Annexure R5/1), and by

Government of Punjab, vide letter dated September 11, 1964 (Annexure R5/2), the appellant was rightly promoted as Superintending Engineer vide order dated July 16, 2007 (Annexure P12). The learned Single Judge has discarded this plea by observing as under:

“The point for decision in this case is whether respondent No. 5, who possesses a certificate from the Institution of Mechanical Engineers, India, (Mumbai) can be considered to be qualified for promotion to the post of Superintending Engineer in terms of the requirement of the 1988 Rules, which require a degree in Engineering. This question has to be answered in negative in view of the settled law as enunciated in the decision of this Court referred to by learned counsel for the petitioner. ...”

06. Learned senior counsel representing the appellant has failed to persuade us to take a different view. May be, certificate from the Institution of Mechanical Engineers (India), Mumbai has been recognized by Government of India for employment vide notification dated November 24, 2006 (Annexure R5/1), and by Government of Punjab, vide letter dated September 11, 1964 (Annexure R5/2) but the learned senior counsel has not been able to bring to our notice any decision either of the Government of India or Government of Punjab declaring such a certificate equivalent to a Degree in Engineering which is the requisite qualification for promotion to the post of Superintending Engineer under the 1988 Rules. That being so, appellant's promotion as Superintending Engineer was illegal and has been rightly quashed by the learned Single Judge.

07. In view of the above, no fault can be found with the order of learned Single Judge allowing writ petition brought by the first respondent challenging promotion of the appellant to the post of Superintending

Engineer. The appeal, therefore, fails and is dismissed.

[SATISH KUMAR MITTAL]
JUDGE

[MAHAVIRS. CHAUHAN]
JUDGE

August 28, 2015
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