

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

LPA No. 990 of 2015 (O&M)

DATE OF DECISION : 04.08.2015

Punjab State Power Corporation Limited and others

.... APPELLANTS

Versus

Jagjit Singh and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Ashok Aggarwal, Senior Advocate, with
 Mr. Vinod S. Bhardwaj, Advocate,
 for the appellants.

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SATISH KUMAR MITTAL, J.

Punjab State Power Corporation Limited and others have filed this intra-court appeal under Clause X of the Letters Patent against the judgment dated 07.04.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 3954 of 2014) filed by Jagjit Singh and Balbir Singh (respondents herein) has been allowed and the appellants have been directed to consider and promote both the respondents to the post of Assistant Engineer from the date their juniors have been promoted, with all consequential benefits.

After hearing learned Senior counsel for the appellants and going through the impugned judgment passed by the learned Single Judge, we do not find any merit in the instant appeal.

Undisputedly, respondents No.1 and 2 served the Indian Navy and Indian Air Force, for a period of more than 16 years and 20 years, respectively. Thereafter, in the year 1991, respondent No.1 joined the service of the appellant Corporation as Sub Station Attendant. In the year 2000, he was promoted to the post of Junior Engineer. So far as respondent No.2 is concerned, he was directly recruited as Junior Engineer by the appellant Corporation in the year 2010. After serving the appellant Corporation as Junior Engineers for a period of more than three years, both the respondents sought their promotion to the post of Assistant Engineer, as per Regulation 10.7 of the Punjab State Electricity Board, Service of Engineers (Electrical) Regulations, 1965, which provides that 14% of the cadre posts of the Assistant Engineers shall be reserved for departmental 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 of service in that capacity. Both the respondents, who are Diploma holders in Electrical Engineering, claimed their promotion on the basis of a Notification dated 26.05.1977 (Annexure P-3) issued by the Government of India, Ministry of Education and Social Welfare (Department of Education Technical), stating therein that for the purpose of selection of Gazetted posts and services under the Central Government or State Government, 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.

The learned Single Judge, while taking into consideration the said Notification as well as judgments of this Court in ***Rohtash Kumar Nehra and another vs. Union of India and others*** (CWP No. 12505 of 2009, decided on 15.07.2010) and ***Lal Chand Jangra vs. State of Haryana and others*** (CWP No. 7955 of 2010, decided on 21.12.2010) has allowed the writ petition. The learned Single Judge has also noticed that against the judgment passed in ***Lal Chand Jangra's case*** (supra), LPA No. 1495 of 2011 was filed by the State, which was dismissed and it was held 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 also been noticed by the learned Single Judge that the Special Leave Petition being SLP No. 2876 of 2012 filed against the said judgment has also been dismissed by the Apex Court vide order dated 12.03.2012. It has been further noticed that this Court in ***Ram Chander vs. HPGCL and others*** (CWP No. 10974 of 2012, decided on 18.03.2015) has also followed the same principle and the Notification.

Learned Senior counsel appearing on behalf of the appellants could not dispute the aforesaid factual and legal position. However, he has argued that in the appellant Corporation, there are many employees who are

Diploma holders in different fields of Engineering and have also acquired 10 years of technical experience in the appropriate field. They will also claim similar benefits. This contention is not sustainable, because both the respondents are from a different class. One of them has served the Indian Navy for more than 16 years and the other has served the Indian Air Force for a period of more than 20 years. Both of them are Diploma holders in Electrical Engineering. The Government of India, while issuing the Notification dated 26.05.1977, has recognized Diplomas in Electrical Engineering as equivalent to Degrees in Electrical Engineering for getting appointment in the Civil Services, if Diploma holders have acquired 10 years of technical experience in the said field. Since both the respondents are the Ex-Servicemen, other employees of the appellant Corporation cannot get themselves equated with them.

Learned Senior counsel for the appellants further argued that under the Service Regulations, no person can be appointed to the post unless he/she has passed a Degree of Bachelor of Engineering in respective discipline from a recognized Institution/University. He argued that on the basis of the Notification dated 26.05.1977 issued by the Government of India, Ministry of Education and Social Welfare (Department of Education Technical), Diplomas in Engineering possessed by both the respondents cannot be recognized as equivalent to Degree in Engineering.

This contention also cannot be accepted, because vide the

aforesaid Notification dated 26.05.1977, Diploma of Engineering in appropriate discipline plus total 10 years of technical experience in the appropriate field has been recognized as equivalent to Degree in Engineering only for the purpose of selection of Gazetted posts and services under the Central Government or State Government.

In view of the above, we are of the view that the learned Single Judge, while relying upon the earlier decision of this Court in **Lal Chand Jangra's case** (supra), wherein the controversy has been decided in favour of the employees, which has attained finality upto the Apex Court, has rightly allowed the writ petition filed by the respondents. Thus, we do not find any ground to interfere with the impugned judgment passed by the learned Single Judge.

No merit.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 04, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE