

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10153 of 1998 (O&M)
Date of Decision: 03.05.2016

Vinod Kumar and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. H.N.S. Gill, Advocate,
for the petitioners.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. Mr. Gill appearing for the petitioners has been hard pressed to breathe life into this eighteen year old petition which has come to bear all the characteristics of a matter rendered infructuous.

2. The challenge in this petition was to threatened demotion in rank on the passing of the order dated June 29, 1998 (Annex P-4) which was a result of directions issued by this Court in CWP No.7291 of 1997 titled *Ravinder Singh and others v. State of Punjab and another*. The Court dealt with Rule 8 of the **Punjab Engineers (Public) Class III Service Rules, 1991** (for short “the Rules”) which inter alia prescribe the method of appointment and the minimum educational qualifications prescribed in the case of Junior Engineer (Civil) which was 80% by direct appointment from amongst the eligible candidates who possessed diploma in Civil Engineering from a recognized University or Institution etc. and 20% by promotion in the manner provided. The Division Bench commended the

view that as the rule stood and in case it was thought expedient to relax the condition of passing the prescribed test by the diploma-holders who had already been promoted, the cases of the petitioners who are otherwise eligible for promotion as Junior Engineer (Mechanical) within their quota should have been considered on the same footing. The Court was also of the view that no fault had been committed by the petitioners when deprived of opportunity of passing the departmental examination by failure to hold them by the department as required by Rule 9 of the Rules. The petitioners in *Ravinder Singh* had a right to be promoted as diploma holders though junior to them in the rank of Pump Operators and if allowed would steal a march over them. The Division Bench thought the best solution would be to promote the Pump Operators (ITIs) in accordance with their seniority against their quota and against the roster points subject to their passing the departmental examination as and when held. If this position was maintained then they would be entitled to retain their seniority in the rank of Junior Engineer (Mechanical).

3. In this manner, a direction was issued in *Ravinder Singh* to the respondents to consider the case of Pump Operators (ITIs) against roster points in their quota for promotion as Junior Engineer (Mechanical) with effect from the date any of their juniors in the category of diploma-holders might have been promoted in their quota, which would be subject to passing of departmental examination. The Division Bench passed these orders on April 28, 1998. The immediate fallout was on the petitioners as implementation of court orders would inevitably result in reversion of the petitioners.

4. Since the rule position has been interpreted by the Division Bench in *Ravinder Singh*, then no individual can claim any further right to be heard, including the petitioners, provided the case was contested by the department before the decision was rendered.

5. There is therefore found no fundamental, civil or statutory right of the petitioners which have been infringed by the impugned orders which call for no interference.

6. The petition is accordingly dismissed as one without any substance. In any case, being a seniority matter, interference would not be warranted after lapse of many years. The petitioners were appointed in 1975 and 1976 and must have retired from service many years ago.

(RAJIV NARAIN RAINA)
JUDGE

03.05.2016
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