

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 16874 of 2012

Date of Decision : February 08, 2016

Somvir Singh Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Ravi Vema, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

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DEEPAK SIBAL, J. :

The present petition has been filed seeking dual reliefs. The first claim is for the grant of the second Assured Career Progression (ACP) pay scale under the Haryana Civil Services (Assured Career Progression) Rules, 2008 (hereinafter referred to as – the 2008 Rules) and the second prayer is for designating the petitioner as Additional Sub Divisional Engineer under Schedule I Part I of the 2008 Rules.

The first prayer is not pressed as the same, during the pendency

of the present writ petition, has been granted to the petitioner by the respondents.

So far as the second prayer for designation as Additional Sub Divisional Engineer is concerned, the relevant portion of 2008 Rules may be referred to as under :-

“4. Cadre specific assured progression scheme .-

The ACP pay band and grade pay as time scales mentioned in column 5 of Part I of Schedule I to certain cadres/posts mentioned in column 2 of Part I of Schedule I shall be admissible to all government servants who become members of such cadres by way of direct recruitment or promotion.

8. Other general conditions of eligibility of ACP pay structure .-

The following general conditions shall also be fulfilled by a Government servant for availing benefit of ACP :-

(a) after completing the respective prescribed period for eligibility for the grant of ACP pay structure the Government servant should be fit to be promoted to the next higher post in the functional hierarchy in his cadre, but could not be functionally

promoted due to lack of vacancy in the promotional post in the hierarchy to which he is eligible to be promoted ;

(b) if such promotion involved passing of any departmental test or other test etc., such condition should also be fulfilled by such Government servant.

SCHEDULE I
PART I

- | | |
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| <p>10. <u>Junior Engineer</u>
<u>in three wings of</u>
<u>PWD Panchayati</u>
<u>Raj and Town</u>
<u>and Country</u>
<u>Planning</u>
<u>Departments.</u></p> | <p>(a) 9300-34800 PB-2
3600 (entry level pay band)</p> <p>(b) 9300-34800 PB-2
4000 (on completion of 10 yrs. regular satisfactory service)</p> <p>(c) <u>9300-34800 PB-2</u>
<u>5200 (on completion</u>
<u>of 18 yrs. Regular</u>
<u>satisfactory services</u>
<u>with changed design-</u>
<u>ation of Addl. SDE)</u>
[Emphasis supplied]"</p> |
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It is the admitted position that the petitioner has put in 18 years of satisfactory service as a Junior Engineer in the Department of Town and Country Planning, Government of Haryana. That being so, by the plain reading of the afore-quoted provision of the 2008 Rules, he is entitled to be designated as Additional Sub Divisional Engineer.

The objection to such designation raised on behalf of the State of Haryana on the ground that there is no post of Additional Sub Divisional Engineer under the applicable service Rules and that the further promotion of the petitioner, as per the applicable service Rules, is to the post of Planning Assistant, is to be considered only to be rejected. All that the petitioner seeks is a designation, which is given to him under the 2008 Rules. Even after such designation he would continue to substantively hold the post of Junior Engineer and consequently, his promotion under the applicable service rules to the post of Planning Assistant would be considered as per his service as Junior Engineer. Such designation would not involve any financial benefits to him nor would grant him promotional status. If the plea raised on behalf of the State is to be accepted, then that would make the afore-quoted part of the 2008 Rules a nugatory and that the same would be against the 2008 Rules, which have been promulgated by the State itself and are statutory in nature, having been framed under Article 309 of the Constitution of India.

In view of the above, the respondents are directed to designate the petitioner as Additional Sub Divisional Engineer. However, such designation shall neither entitle him to any financial benefits nor shall entail any promotional status. He shall be simply designated as Additional Sub Divisional Engineer and would be considered for further promotion, as per the applicable service Rules, as per his service on the substantive post held

by him as a Junior Engineer.

The writ petition stands allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

February 08, 2016
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