

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

CWP No.11083 of 2015

Date of decision: 02.03.2016

Partap Singh

...Petitioner

versus

Haryana Vidyut Parsaran Nigam Limited and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suvir Sidhu, Advocate,
for the petitioner.

Mr. Deepak Sabharwal, Advocate,
for respondent Nos. 1 to 3.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

RITU BAHRI, J.

The petitioner is seeking quashing of the order dated 19.05.2015 (Annexure P-13) and ranking list dated 01.01.2014 (Annexure P-12), whereby the Managing Director, HVPNL has approved the revised tentative ranking list for promotion of Junior Engineers to the post of Assistant Engineer under 12½% quota of Engineering subordinates holding AMIE/Degree, whereby the petitioner has been placed at serial No.44.

Partap Singh-petitioner was appointed as Shift Attendant in erstwhile Haryana State Electricity Board on 10.10.1997 (Annexure P-1). Thereafter, he was promoted to the rank of Assistant Sub-Station Attendant and was again promoted to the post of Junior Engineer as per promotion order dated 28.07.2005 (Annexure P-2, collectively). During the course of employment, the petitioner passed Section 'A' of Electrical Engineering conducted by the Institution of Engineers (India) in Winter, 2002. He passed

Section 'B' of the said examination in Winter, 2008. Certificate dated 01.11.2009 issued by the Institution of Engineers (India) and provisional degree have been annexed as Annexure P-3 (collectively). On 12.07.2012, a ranking list (Annexure P-4), adopted by HVPNL, for promotion of Junior Engineer was prepared, in which the petitioner was placed at serial No.34. The said list was prepared after scrutinizing his date of birth, date of joining, qualifications, date of passing the last examination, other relevant documents and information. The petitioner was promoted as Junior Engineer-IIInd vide order dated 28.07.2005 and then as Junior Engineer-Ist vide order dated 01.08.2012. Thereafter, he was promoted as Assistant Engineer vide order dated 06.09.2013 (Annexure P-5). Some employees belonging to Ex-Servicemen category having served in the Air Force/Navy in the Technical stream approached this Court by filing CWP Nos.7955 of 2010, 15110 of 2010 and 10429 of 2010. They being diploma holders, were claiming that after serving in the Air Force/Navy in Technical stream for more than 10 years, they should be considered eligible for promotion against 12½% vacancies, which were reserved for Engineers Subordinate of General Cadre possessing AMIE/BE qualifications and having 3 years service as such. The aforesaid writ petitions were allowed vide order dated 21.12.2010 (Annexure P-7) by giving direction to the respondents to consider the qualifications of the petitioners equivalent to Degree in Engineering and thereafter, prepare a fresh ranking list. LPA against the said judgment was dismissed by a Division Bench of this Court and thereafter, SLP filed by the respondents was also dismissed by the Hon'ble Supreme Court in limine. In response to the above said judgment, a fresh ranking list of Junior Engineers was prepared, in which, the petitioner's name figured at serial No.44. Thereafter,

the petitioner was given a notice dated 05.02.2015 for reversion from the post of Assistant Engineer to Junior Engineer-I. On receipt of the notice, he submitted reply to the same. Finally, the order dated 19.05.2015 for reversion of the petitioner from the rank of Assistant Engineer to that of Junior Engineer was passed. The petitioner, thereafter, filed an application dated 13.02.2015 under the Right to Information Act, 2005 seeking the criteria adopted by the respondent-Nigam, upon which, the respondents gave their reply dated 24.03.2015 (Annexure P-11).

Upon notice, written statement on behalf of respondent Nos. 1 to 3 has been filed, wherein, it has been stated that vide office memo dated 01.01.2014, a tentative revised seniority list was issued. The petitioner was promoted to the post of Assistant Engineer vide order dated 06.08.2013 (Annexure R-3) with a condition that in case any senior person belonging to DH/AMIE/BE category becomes eligible/available, he would be reverted without any notice to make room for the senior, if need be. Some of the employees filed CWP No.10471 of 2003, titled as **Sanjeev Kumar and others Vs. HVPNL**, seeking relief to include the name of the petitioner(s) in the seniority list prepared on 01.08.2004 for promotion to the post of Junior Engineer. The said petition was disposed of by this Court vide order dated 15.05.2013 by giving direction to the respondents to take final decision on the legal notice dated 12.08.2012. Thereafter, order dated 10.10.2013 has been passed by the respondents, vide which, four officials namely, Sh. Karan Pal, Sh. Dalbir Singh, Sh. Ramesh Chander and Kuldeep Rai have been reverted from the post of Junior Engineer to the post of GSO/Sr. Carrier Assistant on the analogy that the names of the employees could not have been taken into consideration for promotion to the post of JE in the ranking

list prepared for the period ending 31.07.2010, as they had not qualified as on 31.07.2010, thereby implying that the employees would be considered eligible only from the date of issuance of the degree and not from the date of passing/appearing in the qualifying examination. The eligibility of the officials is considered from the date of issue of the certificate. The petitioner acquired degree on 01.11.2009, therefore, he would be entitled for consideration in the ranking list of Degree Holders at that time on the basis of issuance of certificate i.e. as on 01.01.2010 instead of 01.01.2009. The order dated 10.10.2013 reverting four employees from the post of Junior Engineer to GSO/Sr. Carrier Assistant is annexed as Annexure R-2.

Heard, counsel for the parties.

After perusing the order dated 10.10.2013 (Annexure R-2) and the information received by the petitioner under the RTI Act (Annexure P-11), it becomes clear that the ranking list was required to be prepared on 1st of January every year. A query was put to learned counsel for the respondents to clarify, as to what criteria was to be taken while preparing the ranking list, whereupon it has been informed that the date of degree/certificate is being taken into consideration while preparing the ranking list. Similar information has received by the petitioner on 24.03.2015 (Annexure P-11). Same criteria has been adopted by the respondent-Nigam while passing the order dated 10.10.2013 (Annexure R-2) and the ranking list was prepared by taking into the date of issue of degree and not the date when they appeared in the examination.

On a further query put to learned counsel for respondent Nos. 1 to 3, it has been informed that till today, no appeal had been filed against the order dated 10.10.2013 (Annexure R-2). Hence, the said order has attained

finality. In the revised seniority list dated 01.01.2014, the name of the petitioner figured at serial No.44, as he acquired the degree on 01.11.2009. Thus, his name has been included in the ranking list of degree holders on the basis of date of issue of certificate as 01.01.2010 instead of 01.01.2009. Pursuant to the representation dated 15.01.2014 made by the petitioner, he was called for personal hearing vide letter dated 22.01.2014 (Annexure R-4). Thereafter, the final seniority list dated 31.12.2014 (Annexure R-5) has been prepared.

After going through the facts and circumstances of the case, it appears that order dated 10.10.2013 (Annexure R-2) has been passed keeping in view the date of issuance of certificates/degrees of all the employees. Thereafter, the ranking list (Annexure R-5) has been prepared by the respondents. After revising the seniority list, the petitioner has rightly been reverted vide impugned order dated 19.05.2015 (Annexure P-13). Hence, no ground is made out to interfere in the impugned order.

Dismissed.

02.03.2016
ajp

(RITU BAHRI)
JUDGE