

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16541 of 2015(O&M)
Date of Decision : 29.11.2016

P.D. Kaushik

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present : Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. R.D. Bawa, Advocate for the respondents.

Anupinder Singh Grewal (Oral)

The petitioner is seeking his promotion to the post of Assistant Engineer with effect from the date his juniors have been promoted. He has sought further direction to the respondents to grant him the pay for the post of Assistant Engineer as he was assigned current duty charge thereof vide order dated 09.12.2006.

Learned counsel for the petitioner has contended that the petitioner had been assigned current duty charge on 09.12.2006 but he was not paid the salary applicable to the post of Assistant Engineer. In support of his submission, he has placed reliance upon the judgment of Division Bench of this Court in the case of **Union Territory, Chandigarh Administration and others Vs. Tarlochan Singh and others**, reported as 2014(4) RSJ 22.

Learned counsel has further contended that while his juniors were promoted in the year 2010, the petitioner was not considered for the

same.

Per contra, learned counsel for the respondents states that there was a dispute on account of seniority of the petitioner which was settled only in the year 2012 and hence the petitioner was not considered for promotion for the post of Assistant Engineer on 31.03.2010.

I have heard learned counsel for the parties and perused the writ petition.

It is apparent that the petitioner was at Sr. No.176 in the seniority on 31.03.2010 whereon several persons who were juniors to him including Gulshan Kumar, Ravinder Kumar Aggarwal and Omender Kumar were promoted. Gulshan Kumar was at Sr. No.177, Ravinder Kumar Aggarwal was at Sr. No.178 and Omender Kumar was at Sr. No.179 as on 31.03.2010. The seniority list had been finalised on 26.12.2012. Even in the final seniority list issued on 26.12.2012, the petitioner is shown as senior to the aforementioned persons. The petitioner is at Sr. No.179 while Gulshan Kumar is at Sr. No.180, Ravinder Kumar Aggarwal is at Sr. No.182 and Omender Kumar is at Sr. No.184. Therefore, the case of the petitioner ought to have been considered for the promotion to the post of Assistant Engineer w.e.f. 31.03.2010. There is absolutely no basis for not considering the case of the petitioner for promotion at that time.

Insofar as the case of the petitioner for salary of the post of Assistant Engineer while he was discharging the current duty charge thereof is concerned, the same pay scale is to be accorded to him as it has been held by the Division Bench of this Court in the case of **Union Territory, Chandigarh Administration and others Vs. Tarlochan Singh and others**

(supra) that in case an officer is given current duty charge and promoted on adhoc basis, he shall be entitled to the pay of the promoted post.

Consequently, the petition is allowed. The respondents are directed to consider the case of the petitioner for promotion to the post of Assistant Engineer w.e.f. 31.03.2010. In case, the petitioner is found fit for the promotion, he shall also be entitled to the consequential benefits arising therefrom. The respondents are also directed to pay the salary for the post of Assistant Engineer to the petitioner w.e.f. 09.12.2006 whereon he had been accorded the current duty charge of the post.

**(ANUPINDER SINGH GREWAL)
JUDGE**

**November 29, 2016
jt**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No