

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 23828 of 2012

Date of decision : April 05, 2016

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Anil Nagar and others

.....Petitioners

Versus

UHBVNL and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Pardeep Singh Poonia, Advocate for the
respondents no. 1 & 2.

Mr Anurag Goyal, Advocate for respondents no. 3 to 7.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioners are seeking writ of certiorari for quashing the revised seniority list as on 30.4.2012 circulated vide memo letter dated 07.05.2012 (Annexure P-7), in terms of which according to learned counsel for the petitioners, the benefit already granted to the petitioners of their being in reserved category and placing them at roster point meant for reserved category has been changed.

The petitioners had applied for the posts of Assistant Engineer (Electricals and Electronics) and their names were recommended by the Haryana Public Service Commission for

appointment in UHBVN vide letter dated 24.6.2004 (Annexure P-1). The Managing Director, UHBVN, Panchkula vide memo letter dated 28.8.2006 (Annexure P-2) circulated a tentative seniority list of Assistant Engineers (Electrical) working in UHBVN as stood on 31.5.2006. The petitioners were assigned seniority in view of the provisions contained as per Regulation 15 of PSEB Service of Engineers (Electrical) Recruitment Regulations, 1965 (as applicable to UHBVN). The Chief Secretary, Haryana vide letter dated 24.1.1991 (Annexure P-3) brought in the notice of the Head of the Departments qua the modification made in Instructions dated 09.02.1979 and 16.12.1980. As per the modification, roster points for reserved categories of Class-I and Class-II cadre have been re-allocated in a block of 100 Posts. As per letter dated 24.1.1991 (Annexure P-3) different reserved categories have been allotted roster points as under:-

(a) For persons belonging to Scheduled Casts (for direct recruitment to Class-I and Class-II posts)

*4-8-14-18-24-28-34-38-42-50-54-
58-64-74-84-88-94 and 100*

(b) For persons belonging to backward castes (for direct recruitment to Class I and Class II posts)

10-16-32-46-56-70-76-86 and 96

(c) For Ex-servicemen (for Direct Recruitment to Class I and Class II posts)

12-36-48-72 and 98

(d) For physically handicapped persons (for direct recruitment to Class-I and Class-II posts)

26-52 and 82

Petitioners were assigned seniority as per their entitlement under roster point as under:-

1. Anil Nagar (SC)	158
2. Anil Kumar (SC)	156
3. Naresh Kumar (ESM)	164
4. Mohender Singh (BC)	162
5. Dinesh Kumar (Ph.H)	168
6. Bhupinder Singh (SC)	170
7. Bhupinder Singh (BC)	172
8. Dharambir (SC)	154

Vide office order dated 21.6.2010 (Annexure P-4), the petitioners were promoted to the post of Assistant Executive Engineers on the basis of seniority assigned to them. Thereafter the petitioners were issued show cause notice dated 24.1.2012 (Annexure P-5) vide which it had been alleged that they were assigned seniority numbers in the cadre of Assistant Engineer wrongly i.e on the basis of roster point whereas the seniority was to be assigned as per the recommendation of HPSC. The petitioners gave their reply dated 2.2.2012 (Annexure P-6). The respondents issued a tentative seniority list of Assistant Engineers as stood on 30.4.2012 vide memo dated 7.5.2012 (Annexure P-7). The petitioners, thereafter made a representation dated 1.6.2012 (Annexure P-8) against the tentative seniority list dated 7.5.2012 (Annexure P-7). The petitioners got served legal notice dated 18.7.2012 (Annexure P-9) upon the respondents. The respondents had also issued the tentative seniority list of Assistant Executive

Engineers (AEEs) vide memo letter dated 7.5.2012 (Annexure P-10). In this seniority list, the general category candidates were assigned seniority over and above the reserved category candidates. The petitioners are seeking setting aside of the above said seniority lists dated 7.5.2012 (Annexure P-7 and P-10) as it has been prepared against the Chief Secretary's letter dated 24.1.1991 (Annexure P-3) without following the roster points qua the reserved category candidates of Classes-I & II.

On notice, stand taken by the respondents in the written statement is that the Haryana Public Service Commission finalized the selection of 29 numbers Assistant Engineer (Electrical) and 5 numbers AE (Electronics) for appointment to the post of Assistant Engineers (Electrical/Electronics) against the requisition of UHBVNL and a combined merit list of these selected candidates was supplied on 18.4.2006 by the Haryana Public Service Commission (Annexure R-2/1). The tentative seniority list of AE/Electrical was circulated vide letter dated 28.8.2006 (Annexure P-2) which was prepared category wise i.e General Category then SC Category and then BC etc. The General Category candidates selected in the combined merit list dated 18.4.2006 earlier filed CWP No. 17599 of 2011 titled 'Sukhbir Singh and ohters vs. Uttar Haryana Bijli Vitran Nigam Ltd., Panchkula' challenging the seniority list dated 28.8.2006 which was disposed of by this Court vide order dated 20.9.2011 (Annexure R-2/2) with a direction to the respondents to decide the representation dated 15.12.2010 and 6.9.2011 (Annexure P-5 and P-6) in

accordance with law. The respondents thereafter decided the representations of the General Category candidates vide order dated 7.5.2012 vide which the tentative seniority list of AE Electrical working in UHBVNL as it stood on 30.4.2012 was circulated. This seniority list was circulated after issuance of show cause notice dated 24.1.2012 (Annexure P-5) to petitioner no.1 and other petitioners and after considering replies submitted by the petitioners. Seniority lists dated 07.05.12 (Annexures P-7 and 10) have been prepared as per Regulation 15 of Punjab State Electricity Board Services of Engineers (Electrical) Regulations, 1965 duly adopted by the Nigam and amended from time to time. The seniority of employees is required to be fixed according to the combined merit list as per instructions (Annexure R-2/3).

I have heard the counsel for the parties at length and carefully gone through the records of the case. Counsel for the parties are not in dispute with regard to the selection process initiated by the Haryana Public Service Commission. The question for consideration in the present writ petition is as to how the initial seniority after the selection list was sent by the Haryana Public Service Commission was to be fixed as per the Instructions dated 27.4.1972 (Annexure R-2/3). A conscious decision was taken to fix the seniority as per the combined merit list prepared by the Haryana Public Service Commission. The relevant paragraph no.2 of Instructions (Annexure R-2/3) is reproduced as under:

2. *It has to be pointed out that this*

irregular and inter se seniority of all candidates taken together (i.e. whether appointed against reserved vacancies or against open ones), must be fixed according to the combined merit list and not otherwise. Vacancies assigned to Scheduled Castes/Backward Classes under the block system are so assigned for purpose of reservation only and are not intended for fixing inter seniority of the candidates contrary to their order in the combined merit list prepared by the Public Service Commission/S.S.S Board.

It is further provided in the Instructions that if seniority has erroneously been given disregard of the order in the combined merit list, it should be reviewed and steps should be taken to refix seniority correctly. Instructions (Annexure R-2/3) had clarified the manner in which the inter se seniority of the candidates has to be fixed. The vacancies reserved for scheduled casts and backward classes in every block of 100 vacancies has been given. However, this reservation has to be applied only for the purpose of filling up of the vacancies and not for determination of the seniority. If in a block of 100 vacancies, some vacancies are reserved in the category of scheduled casts backward class those posts have to go to the members of that category. However after being selected, the seniority has to be given as per the combined merit list prepared by

the Commission. In the present case, the general candidates category were aggrieved of the tentative seniority list circulated by the department vide letter dated 28.8.2006 (Annexure P-2). They filed a writ petition which was disposed of by giving directions to the respondents to refix it in accordance with law. The candidates belonging to the reserved category had been given seniority in the tentative seniority list (P-2) as per the roster point even though they were lower in merit to the general category candidates. The respondents, as per instructions (Annexure R-2/3) have rightly refixed the seniority after giving the notice dated 24.1.2012 (Annexure P-5) to the petitioner and has fixed the inter se seniority of all the candidates as per the combined merit list prepared by the Haryana Public Service Commission. The Instructions (Annexure R-2/3) clarified in paragraph 2 that the vacancies which have been assigned to Scheduled casts backward classes are for the purpose of reservation and not for the purpose of fixing inter se seniority. Final seniority lists dated 7.5.2012 (Annexures P-7 and P-10) do not require any interference as they have been framed after giving notice to the petitioner and following the instructions (Annexures R-2/3).

Having regard to the aforesaid, I find no merit in the writ petition and the same is dismissed.

April 05, 2016
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(**RITU BAHRI**)
JUDGE