

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

**CWP No.23170 of 2013 (O&M)
Date of decision: 19.01.2016**

Surjan Ram

...Petitioner

versus

Haryana Power Generator Corporation Limited and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.B. Aggarwal, Advocate,
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate,
for the respondents.

RITU BAHRI, J.

This petition has been filed for quashing/modification of the orders dated 18.10.2011 (Annexure P-3) and 25.09.2012 (Annexure P-14) and for issuance of direction to respondent Nos. 1 to 3 to promote the petitioner as Technician/Plant Attendant w.e.f. 09.02.2000 as per order dated 12.06.2002 (Annexure P-2), the date when his juniors namely Maman Singh and Rishi Pal-respondent Nos. 4 and 5 have been promoted.

Services of the petitioner were regularized on 28.08.1990 and those of respondent Nos. 4 and 5 were regularized on 16.10.1990 as T. Mates as per list prepared on 31.12.1991 (Annexure P-1). Respondent Nos.4 and 5 were promoted as Plant Attendant vide order dated 12.06.2002 w.e.f. 09.02.2000 (Annexure P-2). However, the petitioner has now been promoted

as Plant Attendant vide order dated 18.10.2011 (Annexure P-3). Promotion of the petitioner was delayed as FIR No.115/91, under Sections 379/411 IPC was got registered against him at Police Station, Chhachhrauli by some of the official respondents. In that case, he was arrested and thereafter, was placed under suspension vide order dated 26.08.1991. Ultimately, vide judgment dated 01.10.1996 (Annexure P-5), the petitioner was acquitted in that case. After acquittal, he was reinstated in service vide order dated 09.03.1999 and the suspension period was treated as 'leave of the kind due.' This order was challenged by way of filing a civil suit for declaration to the effect that the same was illegal, null and void. The trial Court dismissed the said suit vide judgment dated 26.08.2003. However, the lower appellate Court accepted the appeal and decreed the suit of the petitioner vide judgment dated 10.02.2006 (Annexure P-6). The respondent-department, thereafter, filed RSA No.3152 of 2006 before this Court, which was dismissed vide judgment dated 21.05.2007 (Annexure P-7). Thereafter, the petitioner filed an execution application before the executing Court. The execution was satisfied in the month of May, 2008. The present petition has been filed seeking the benefit of promotion from the date when his juniors were promoted.

The petitioner was granted promotion vide order dated 18.10.2011 (Annexure P-3). A legal notice dated 06.09.2012 (Annexure P-13) was sent by the petitioner to respondent Nos. 1 to 3 seeking the benefit of promotion w.e.f. 09.02.2000 at par with respondent Nos. 4 and 5 who were regularized after the petitioner. However, the same was rejected vide order dated 25.09.2012 (Annexure P-14).

Upon notice, written statement on behalf of respondent Nos. 1 to

3 has been filed, wherein it has been stated that the petitioner was appointed as T/mate on work charge basis in the Hydel Organization on 01.01.1981, whereas respondent Nos. 4 and 5 were appointed on work charge basis to the post of motor mate on 08.07.1980 and 01.09.1980 respectively. Services of the petitioner were regularized on 28.08.1990 and that of Maman Singh and Rishi Pal-respondent Nos. 4 and 5 were regularized on 16.10.1990 on the recommendation of Screening Committee. The seniority list of T/mate regular was prepared on 31.12.1991 and in this list, Maman Singh and Rishi Pal were assigned seniority Nos. 7 & 12 respectively, whereas, the petitioner was shown at serial No.28. Maman Singh-respondent No.4 was promoted to the post of Skilled Helper on 20.03.2001 and Rishi Pal-respondent No.5 was promoted to the said post on 30.04.2002 as per seniority list of T/mate. One Naresh Chander, who had joined the Hydel project on 24.09.1980 as T/mate on work charge basis i.e. prior to the petitioner who had joined on 01.01.1981, was considered for promotion at par with Ashok Chhiber to the post of Fitter w.e.f. 11.01.1985, who had joined in Hydel Organization on 16.12.1980. Since respondent Nos. 4 and 5 had joined the Hydel Organization before Ashok Chhiber, they were also granted deemed date of promotion w.e.f. 11.01.1985 to the post of Fitter/Technician to make them at par with Ashok Chhiber, who was junior to them on the basis of joining. The petitioner cannot seek parity with respondent Nos. 4 and 5 as well as Naresh Chander, as all the three had joined the Organization before the petitioner. Moreover, as per seniority list of T/mate prepared on 31.12.1991, they were senior to the petitioner. The petitioner being at serial No.28 in the seniority list, cannot claim deemed date of promotion from the date when respondent Nos.4 and 5 were promoted. It was further submitted that as per the

Recruitment and Promotion Policy of Hydel O&M staff, which was notified and circulated on 28.11.2000 (Annexure R-3/2), necessary qualification for the post of Plant Attendant and Technician was as under:-

“Plant Attendant

50% posts shall be filled up by promotion from skilled Helper who possess Matric with two years ITI as the minimum qualification and have three years experience/service as such.

Technician

50% posts shall be filled up by promotion from skilled Helper who possess Matric as the minimum qualification and have five years experience/service as such.”

Thereafter, the recruitment and promotion rule was amended and circulated vide office order dated 29.08.2011/09.09.2011 (Annexure P-4) and the qualification was relaxed as under:-

“Plant Attendant

80% posts shall be filled up by promotion from skilled Helper who are matriculate with five years experience/service as such.

20% posts of Plant Attendant shall be filled up by promotion from skilled Helper who are having Matric and 2 years ITI with 1 year's experience.

Technician

80% posts shall be filled up by promotion from skilled Helper who are Matriculate with five years experience/service as such.

20% posts of Plant Attendant shall be filled up by promotion from skilled Helper who are having Matric and 2 years ITI with 1 year's experience.”

After the amendment of Promotion Policy on 09.09.2011, the petitioner has been promoted to the post of Plant Attendant being a Matriculate having five years experience.

Respondent Nos.4 and 5, as per the seniority list as stood on 31.12.1991, were senior to the petitioner and this seniority list has attained finality as the petitioner has not challenged the same. Hence, the promotion has been rightly given to him after circulation of amended Recruitment and Promotion Rules. Therefore, he cannot claim promotion from the date when

respondent Nos. 4 and 5 were promoted.

No merits.

Dismissed.

(RITU BAHRI)
JUDGE

19.01.2016.

ajp