

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

**CWP No. 20669 of 2014
Date of decision : 15.02.2016**

Dinesh Kumar **...Petitioner**

versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others **..Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagbir Malik, Advocate
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J.

Petitioner was appointed as LDC in the field office cadre and joined in the office of Executive Engineer, Operation Divn DHBVN, Sohna on 24.08.2007 (P-1) and he joined the Nigam on his transfer from DHBVN as per Inter Utility Transfer Policy of the Power Utility Companies. On 07.04.2010, he was promoted to the post of UDC and was posted in the office of respondent No. 3 against the post of Field Office Cadre Staff (P-2). Thereafter, Haryana State Electricity Board took a decision to allow their employees to change the cadre of posts having

identical pay scales, which was subsequently withdrawn on 30.10.1995 and it was decided that non-gazetted staff is entitled to change his cadre from Head Office to Field or Vice Versa (P-3).

Petitioner then submitted his application dated 26.04.2010 through proper channel for change of his cadre from Field Cadre to Head Office Cadre and submitted an affidavit that he is ready to loose his seniority and will not claim any benefit of his seniority in the Field Office Cadre and the request of the petitioner was recommended by respondent No. 3 to respondent No. 2 vide Annexure P-4 and P-5. When the request of the petitioner was not considered, he submitted a number of reminders to change his cadre from Field to Head Office, which were duly recommended by respondent No. 3 to respondent No. 2 (P-6 to P-14).

Vide order dated 08.02.2012, the request of the petitioner was rejected and on 15.02.2012, respondent No. 4 was promoted to the post of U.D.C.

Suddenly, vide order dated 20.12.2012, respondent No. 2 has accorded approval for change of cadre of the petitioner from Field to Head Office w.e.f 14.07.2011 and was posted in the office of Chief Accounts Officer, UHBVNL, Panchkula (P-27). However, petitioner was not relieved by respondent No 3 due to shortage of staff and order

dated 20.12.2012 was modified to the extent of posting of the petitioner in the office of respondent No. 3.

Thereafter, vide order dated 09.07.2013, respondent No. 6 was given promotion to the post of Assistant despite the fact that the petitioner is senior to respondent No. 6 as UDC, as petitioner was promoted as UDC on 07.04.2010 and respondent No 6 was promoted as UDC on 08.06.2011. In this regard, petitioner submitted detailed representation dated 10.07.2013 and requested for his promotion to the post of Assistant w.e.f 09.07.2013 i.e the date junior to the petitioner i.e respondent No. 6 was promoted. When his request was not considered, petitioner gave reminders (P-31 to P-33 and P-35 to P-36).

Thereafter, vide order dated 30.12.2013, respondent No. 2 modified orders dated 20.12.2012 and 21.02.2013 fixing the seniority of the petitioner as UDC in Head Office Cadre w.e.f 21.02.2013 and placed him below respondent No. 4 in seniority (P-34).

A legal notice dated 25.02.2014 (P-37) has been served in this regard for grant of seniority as UDC in Head Office Cadre w.e.f 14.07.2011 and for his promotion to the post of Assistant with all consequential benefits. Vide order dated 09.04.2014, respondent No. 2 modified order dated 30.12.2013 fixing the seniority of the petitioner as

UDC in Head Office Cadre below respondent No. 5 in seniority (P-38).

Respondent No. 2 rejected the request for correction of seniority and grant of promotion to the post of Assistant and further his request for deemed date of promotion to the post of Assistant from the date juniors to him were promoted, vide orders dated 17.04.2014 and 23.07.2014 (P-39 and P-40).

On notice, a written statement has been filed on behalf of respondent Nos. 1 to 3 admitting that the petitioner joined the Nigam on 01.01.2010 as LDC (Field Cadre) and subsequently promoted as UDC (Field Cadre) on 07.04.2010. Then he moved a representation (P-4) for the request to change of cadre from Field Cadre to Head Office Cadre. Subsequently, vide order dated 20.12.2012, his cadre was changed w.e.f 14.07.2011, which was done *inadvertently* and accordingly, this order dated 20.12.2012 was reconsidered by the Competent Authority vide order dated 30.12.2013 and the seniority of the petitioner was again fixed from the date of joining in the H.O cadre w.e.f 21.02.2013 in terms of instructions dated 30.10.1995.

I have gone through the records of the case.

A perusal of instruction dated 30.10.1995 (P-3) shows that where there is change of cadre of posts having identical pay scales, the official will have to forego all the special allowances attached with

previous post, if any, from where is seeking change over which are otherwise not allowed in the new cadre post. Besides, he will be placed at the tail end of seniority list of the cadre which he has changed over.

It is not in dispute that the seniority of the petitioner was fixed from the date of joining in the H.O Cadre w.e.f 21.02.2013 and he was to place at the tail end of seniority list of the cadre, as he has changed over.

Thus, this aspect has rightly been considered by the respondents vide orders dated 17.04.2014 and 23.07.2014 (P-39 and P-40) by rejecting his claim for correction of seniority and grant of promotion to the post of Assistant and further with regard to deemed date of promotion to the post of Assistant from the date juniors to him were promoted.

The impugned orders have rightly been passed, in view of the instructions dated 30.10.1995 (P-3).

The instant writ petition is dismissed, accordingly.

(RITU BAHRI)
JUDGE

15.02.2016

G Arora