

CWP No.20318 of 2016

#1# Manoj Kumar
2017.05.10 17:29
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20318 of 2016

Date of decision: **04.10.2016**

Paramjit Goyal and Ors.

....Petitioners

Vs.

State of Punjab and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Gurminder Singh, Sr. Advocate with

Ms. Harpriya Khaneka, Advocate for the petitioners.

Mr. Rajiv Atma Ram, Sr. Advocate with

Mr. Puneet Gupta, Advocate for respondent No.3-
Caveator.

Jaswant Singh, J

1. The four petitioners, namely, Paramjit Goyal, N.P Sharma, Sukhdeep Singh Dhindsa and Ramtesh Singh Bains, who are working as Executive Engineers with the Department of PWD (B&R), Government of Punjab, by way of filing the present writ petition, seek a writ of Certiorari for setting aside the recommendations made by the Departmental Promotion Committee on 19.9.2016 (P.17) for promotion of respondent No.3- Parmjoti Arora from the post of Executive Engineer to that of

Superintending Engineer in the category of Physically challenged (Visually impaired); with further directions to re-consider the matter on the basis of seniority fixed as on 29.8.2007 (P.18), Notification dated 29.7.2013 (P.10) issued by Government of India and the Instructions dated 10.7.2014 (P.11) issued by State of Punjab.

2. Before proceeding further in the matter, it is apt to notice that this Court on 28.9.2016 sought for clarification from the Punjab Government through its Chief Secretary as to whether the post of Superintending/Chief Engineer is identified for the benefit of reservation for the Visually Impaired person in view of the Instructions dated Notification dated 29.7.2013 (P.10) issued by Government of India and the Instructions dated 10.7.2014 (P.11) issued by the Government of Punjab on the basis of contention raised on behalf of the petitioners to the effect that on an earlier occasion, a similar case of Visually Impaired Person, namely, Suman Sood had been rejected.

In pursuance of the aforesaid, an affidavit dated 03.10.2016 of the Chief Secretary, Government of Punjab has been filed and para 1 of which relates to respondent No.3, whereas para 2 explains the case of said Suman Sood. Both the paras read as under:

“1. That Sh. Param Jyoti Arora Joined the service as SDE (Civil) in the Department of Public Works (B&R) during 2002 as a handicapped person with disability with low vision. Further, he was promoted to the post of Executive Engineer during 2011 in the same category. In view of the above situation the case of this official is

covered under the Notification No.16-15/2010-D.O III dated 29th July, 2013 of Ministry of Social Justice and Empowerment, Government of India. Note 3 & 4 of Para 5 of this notification envisage as under:

Note-3 *“If a post already held by a person with disability, it shall be deemed to have been identified.”*

Note- 4 *“If a post is identified in the feeder grade, the post in the promotional grade should also stand identified.”*

As such, Sh. Param Jyoti Arora held the post of SDE (Feeder Cadre) in handicap category with low vision and his post is deemed to be identified and as per note 4 of the above referred notification. His post also stands identified in the promotional grade also.

2. That on the other hand, Sh. Suman Sood joined Irrigation Department as SDE (Civil) in general category during 1980. He was promoted as Executive Engineer (Civil) during December, 2005, again in general category. Again, he was promoted to the post of Superintending Engineer on 03.12.2012 in the general category. During the year 2015, while case of Sh. Suman Sood was being considered for the post of Chief Engineer in general category, the Departmental Promotion Committee was informed that Sh. Suman Sood is a 40% visually impaired person and has been issued handicapped certificate by Civil Surgeon, Sangrur vide his letter No.Handy/1767 dated 19.12.2007. It was held by the DPC that Sh. Suman Sood was neither recruited as SDE (Civil) in the handicap category as visually impaired person, nor he was promoted as Executive Engineer & Superintending Engineer under that category. He never held any post meant for handicapped person. As such, the notes 3 & 4, as detailed in Para 5 above, in the Notification No.16-

15/2010-D.O III dated 29th July, 2013 of Ministry of Social Justice and Empowerment, Government of India and adopted by the State Government, do not apply.”

Therefore, from the above, it is *prima facie* evident that promotion to the post of Superintending Engineer against the reserved point for Physically Handicap can be filled up from an employee suffering from the disability of visually impaired.

3. Even otherwise, the main prayer of the petitioner is for quashing of the recommendations made in favour of private respondent No.3 for promotion to the post of Superintending Engineer against a post reserved for Physically Handicap Category and admittedly no promotion order has been passed so far and the law is well settled that a writ petition is not maintainable for challenging the recommendations only, in the absence of any order of appointment. Reference in this regard can be made to a Division Bench judgment of this Court reported as **Ravinder Kumar Vs. State of Haryana and Others, 1999 (1) RSJ 677**, para 4 whereof read as under:

*“4. In our opinion the writ petition does not deserve to be entertained at this stage because it has neither been pleaded nor proved that the competent authority has accepted the recommendations made by the Commission for appointment of respondent No.4 against the post/vacancy earmarked for Ex-Serviceman Backward Class B category. Till that happens challenge to the same recommendation of the Commission has to be treated as premature in view of the decisions of the Supreme Court in **Dr. G.Sarana Vs. University of Lucknow and others, AIR 1976 SC 2428** and **Mrs. Kunda S. Kadam and***

others v. Dr. K.K. Soman and others, AIR 1980 SC 881.”

In view of the aforesaid discussion, no ground is made out to entertain the present petition and the same is dismissed as pre-mature.

October 04, 2016
manoj

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>