

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8809 of 2012 (O&M)
Date of Decision:-16.12.2016.

Sanjay Kumar

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. I.D. Singla, Advocate for the petitioner.

Ms. Balwinder Kaur, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the validity of the seniority list of Junior Engineer (Electrical) and further sought for quashing the order dated 17.2.2012 by which his representation has been rejected by the respondents.

2.) The petitioner and private respondents were candidates for recruitment to the post of Junior Engineer (Electrical) pursuant to the advertisement issued by the respondents in the year 2001-02. The respondents have classified the vacancies viz., 9 posts for General Merit, 2 posts for Scheduled Castes, 1 post for Scheduled Tribe and 4 posts for OBC. The respondents notified the select list accordingly. The petitioner is one of the selected candidate under the OBC category. He was appointed on

5.6.2002 and reported on 1.7.2002. Whereas, the private respondents were

placed in the reserved panel list having regard to the merit in the GM category. The persons who were selected against GM category among the 9 candidates, 4 were held to be medically unfit, 2 persons did not join and only 3 candidates have joined service. Thus, 6 vacancies in the GM category could not be filled up for lack of eligibility and in not joining the post of those who have been selected and placed in the GM category list. In view of these facts and circumstances, official respondents resorted to operate reserved panel list to fill up 6 vacancies under the GM category for which the private respondents have been accommodated. The official respondents while fixing the ranking in the seniority list of Junior Engineer (Electrical), the private respondents who have been accommodated against non-filling up of 6 vacancies even though they have been appointed in the month of October, 2002, they have been placed over the above the petitioner who was appointed on 5.6.2002 much earlier to the private respondents.

3.) Short question for consideration is whether the private respondents are entitled to seniority over and above the petitioner or not. Having regard to the fact that the petitioner was appointed on 5.6.2002 and the private respondents were appointed on 16.10.2002. The contesting respondents admittedly have entered the cadre of Junior Engineer (Electrical) on 16.10.2002 whereas the date of entry of petitioner is 5.6.2002. Therefore, entry into service is required to be taken into consideration for the purpose of fixing ranking in the seniority list of Junior Engineer. Therefore, the private respondents cannot be placed over and above the petitioner. No doubt it is true that merit list is required to be maintained for the purpose of fixing seniority list assigning ranking in the seniority list whereas in the present case for non-joining of selected

candidates under GM category reserved panel list has been operated to adjust them in the GM category and their appointment is not from the date of petitioner who was appointed on 5.6.2002. Merely adjusting the private respondents against GM category that does not create a right to the private respondents to seek seniority over and above the petitioner as he was appointed earlier to the private respondents. Therefore, the impugned seniority list and ranking assigned insofar as petitioner and private respondents are concerned are set aside so also impugned order dated 17.2.2012. The respondents are directed to re-draw the seniority list while taking the date of entry into service for the purpose of fixing ranking in the seniority list of Junior Engineer. After exercising the withdrawing of seniority list of Junior Engineer (Electrical), the respondents are directed to extend consequential benefits to the petitioner. Such exercise shall be done by the respondents within a period of four months from today.

4.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

December 16, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.