

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.244

CWP No.3607 of 2014 (O&M)
Date of decision: 11.02.2016

Subhash Chaudhary

....Petitioner

versus

The Home Secretary-cum-Secretary, Department of Local
Government,U.T., Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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To be referred to Reporters or not?

Whether the judgment should be reported in the digest?

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Present: Mr. P.M. Kansal, Advocate,
for the petitioner.

Mr. I.P.S. Doabia, Advocate,
for respondents No.1 and 4.

Ms. Deepali Puri, Advocate,
for respondents No.2 and 3.

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DEEPAK SIBAL, J.

Through the present petition, the petitioner who is serving in the respondent-Municipal Corporation, Chandigarh (hereinafter referred to as the 'Corporation'), as a Sub Divisional Engineer, seeks consideration of his case for promotion to the post of Executive Engineer (Public Health).

After hearing learned counsel for the parties and perusing the

record, the uncontroverted facts which have emerged are that on March 08, 1977, the petitioner was appointed as a Junior Engineer in the Chandigarh Administration. In the year 1996 on the formation of the Corporation, as per his option his services as Junior Engineer were transferred to the Corporation. While he served the Corporation, on 09.06.1998 he was given additional charge as Sub Divisional Engineer and on 11.10.2006 was regularly promoted on the same post. On 31.03.2013, on attaining the age of 58 years, the petitioner was to retire but as per the policy of the respondents, he sought and got extension in service for one year before the expiry of which he was granted extension for another year. After the expiry of the extended period of service, the petitioner was relieved on 31.03.2015.

Further promotion from the post of Sub-Divisional Engineer to the post of Executive Engineer (Public Health) is governed by the Municipal Corporation Chandigarh Service Regulations, 2012. There being an anomaly with regard to the qualifications for promotion to the post of Executive Engineer (Public Health) the matter was taken up by the respondents and after the reconsideration, the necessary correction was made in the Rules, as under:-

“From amongst the Sub Divisional Engineers, who have an experience of working as such for a minimum period of eight years in the cadre”.

The aforementioned amendment being a clarification would relate back to the date of the promulgation of the Rules in the year 2012.

In the light of the aforesaid facts, it is now to be determined whether the petitioner is eligible for consideration of his case for promotion to the post of Executive Engineer (Public Health).

As per the afore-quoted Rule, a Sub-Divisional Engineer having eight years of service in the cadre is eligible for consideration of his case for promotion as Executive Engineer (Public Health). The petitioner was promoted as a regular Sub-Divisional Engineer on 11.10.2006 and acquired eight years of experience on 11.10.2014. As per the policy under which the petitioner had been granted extension in service, even during the extended period of service, an employee is to be considered for promotion.

The initial extension for one year was granted to the petitioner as per the policy of the Government of Punjab dated 08.10.2012 (adopted by the Chandigarh Administration) and the second extension for the same period of time was granted under the policy of the Government of Punjab dated 20.09.2013 (adopted by the Chandigarh Administration) which contained the same terms and conditions. The relevant portion of the same is as under:-

“That if a promotion post is available, the concerned employee will be eligible for consideration for promotion against that post and on promotion his/her pay shall be fixed under the relevant rules.”

Thus, even during the extended period of service, the petitioner, if eligible and if any post existed was entitled to be considered for promotion to the higher post.

As noticed above, the petitioner had acquired requisite eight years of service as Sub Divisional Engineer before he was relieved and that being so, subject to existence of a vacancy, the petitioner would be entitled to consideration of his case for promotion to the post of Executive Engineer. Accordingly, the present writ petition is allowed and the respondents are directed to consider the case of the petitioner for promotion to the post of

Executive Engineer (Public Health) in accordance with law with all consequential benefits.

(DEEPAK SIBAL)
JUDGE

February 11, 2016

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