

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

CWP No.3403 of 2015

Date of decision:2.8.2016

Vinod Kumar

... Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam, Hisar & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. BS Mittal, Advocate,
for the petitioner.

None for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. No one appears for the contesting respondents. No reply has been filed despite last opportunity granted. The defence of the official respondents is struck off since they are not represented either through any official or by counsel when the case is called for hearing nor have they filed written statement despite opportunity. Respondents No.1 to 4 are proceeded against ex parte. No one appears for the private respondents No.5 & 6 despite service. They too are proceeded against ex parte.

2. Heard learned counsel for the petitioner and perused the record of the writ file.

3. The sole grievance in this petition is that the petitioner has been ignored for promotion to the post of Junior Engineer because his name was not included in the ranking list while considering cases for promotion from the feeder category post. The petitioner belongs to the feeder category. Respondents No.5 & 6 are junior to the petitioner and have been promoted as Junior Engineers. The order of promotion dated

July 31, 2012 has been impugned, which promotes respondents No.5 & 6 by ignoring the case of the petitioner. The second order which is under challenge is of April 4, 2014 which order rejects the case of the petitioner for promotion from the due date for facile and improper reasons. The order has been passed pursuant to directions issued by this Court in the petitioner's earlier writ petition No.24530 of 2013 directing the respondents to decide his pending representation by a speaking order.

4. The only reason assigned to deny the petitioner promotion is that he did not submit his representation for promotion by the cut off date i.e. July 31, 2011. This is a specious plea based on an improper premise that one must ask for promotion like a beggar otherwise he will be denied consideration. Since all the material facts relating to the petitioner are in his service book and available in custody of the promoting authority it remains under bounden duty to place his name in the DPC for its consideration to make recommendations. In any case, in the matter of seniority and promotions there can be no discrimination in passing by names without valid reason. The right to seniority is a shared right with others. In the impugned order it is not disputed that respondents No.5 & 6 are junior to the petitioner. It is no argument or defence that the petitioner's name was added in the revised ranking list of 2011 after he made a representation in the matter. The petitioner has been wrongly ignored for promotion when his juniors were considered and promoted.

5. Accordingly, the writ petition is allowed with costs assessed at ₹ 10,000/- to be paid to the petitioner. The impugned order is thereby quashed by writ of certiorari issued. The petitioner is held entitled to

consideration for promotion from the date when his juniors were promoted to the higher post with all consequential benefits flowing therefrom. A direction is issued to the respondent-Nigam to pass corrective orders immediately and promote the petitioner as Junior Engineer, if there is nothing else against him, which seems unlikely in the face of the impugned order, and thereafter calculate the monetary benefits arising and pay the same to him within one month from the date of receipt of a certified copy of this order. Copy of this order be sent to the respondents for due compliances.

(RAJIV NARAIN RAINA)
JUDGE

2.8.2016

monika

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No