

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 7315 of 2013

Date of decision : March 01, 2016

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Mohinder Singh Grewal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Manoj Chahal, Advocate for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioner is seeking writ of certiorari to quash the impugned orders dated 1.3.2012 (Annexure P-3) vide which the respondent no.4 was granted deemed date of promotion as SDO w.e.f 23.12.2005 and order dated 19.12.2012 (Annexure P-4) vide which respondent no.4 was promoted as Executive Engineer.

The petitioner was appointed as Sectional Officer (later on re-designated as J.E) through Subordinate Services Selection Board, Haryana and joined as such on 23.11.1976. In the merit list

prepared by the Board, the petitioner was at Sr. No.1 and respondent no.4 was at Sr. No.103. The petitioner passed AMIE (Civil) Calcutta during the year 1986 and also passed the departmental examination in the year 1988 and ultimately promoted as SDO vide order dated 24.8.2007 (Annexure P-1). Respondent no.4 was promoted as SDO vide order dated 9.3.2011 (Annexure P-2) on acquiring AMIE (Civil) degree w.e.f 12.5.2010 i.e from the date his junior was promoted. Thereafter vide order dated 1.3.2012 (Annexure P-3), he was granted deemed date of promotion as SDO w.e.f 23.12.2005. Respondent no.4 was further promoted as Executive Engineer vide order dated 19.12.2012 (Annexure P-4) and thereafter he was retired on 31.12.2012. The petitioner made a representation dated 2.1.2013 (Annexure P-5) to the respondents with the grievance that respondent no.4 had been wrongly granted deemed date of promotion as 23.12.2005 as SDO, whereas the petitioner who was senior at the initial stage of appointment had been promoted as SDO w.e.f 24.8.2007. Moreover, there was a condition while promoting respondent no.4 to the post of SDO that he will pass the Departmental examination within a period of three years failing which he would be reverted to his original post. Without completion of this condition, he was further promoted to the Executive Engineer on 19.12.2012 ignoring the claim of the petitioner.

On notice, written statement had been filed on behalf of the respondent. In the written statement it was admitted that the petitioner was senior to respondent no.4 as Junior Engineer and both

officers passed AMIE in Civil Engineering. Writ petition No. 9607 of 2010 titled as 'Mohinder Singh Hooda Vs. State of Haryana' filed by the respondent no.4 was disposed of by this Court vide order dated 8.12.2010. In compliance of order dated 8.12.2010 of this Court, respondent no.4 was promoted as Sub Divisional Officer w.e.f 12.5.2010 i.e the date from which his junior in Degree holders (Mechanical) category was promoted. Thereafter, the respondent made a representation that he acquired AMIE in Civil Engineering, whereas he has been promoted as Sub Divisional Officer from the date of his junior in Mechanical Category was promoted. He had requested that in compliance of order dated 8.12.2010 passed by this Court in CWP No. 9607 of 2010, he may be promoted in Civil Degree Holders category instead of Mechanical category. Accordingly the representation of respondent no.4 was considered by the Departmental promotion Committee and he was recommended for deemed date of promotion w.e.f 23.12.2005 i.e the date from which his junior in Civil Engineering was promoted. Before inclusion of name of respondent no.4 in the seniority list of HSE Group-B Officer, it was requested to all Superintending Engineer to obtain objection from all Sub Divisional Officers working under their administrative control and submit the same, if any. The petitioner had not submitted any objection at that time and hence in view of recommendation of departmental Promotion Committee, respondent no.4 was promoted as Sub Divisional Officer w.e.f 23.12.2005. Accordingly, he was promoted as Executive Engineer after inclusion of his name in the

seniority list of HSE Group-B Officer at Sty. No.766-A, whereas the name of petitioner stands at Sty No.945. The petitioner became junior to respondent no.4 on account of the deemed date of promotion granted to respondent no.4 w.e.f 23.12.2005 and hence promotion of respondent no.4 as Executive Engineer was in accordance with the seniority of HSE Group B officers.

Counsel for the petitioner has argued that the case of the petitioner is at par with that of respondent no.4. Both had been appointed as Junior Engineer (Mechanical). Both of them had passed AMIE in Civil Engineering and this fact has not been disputed by the respondents in their written statement. The respondents have referred to the provisions given in HSE Group-B, PWD (Irrigation Branch) Rules, 1970 which provides that the candidates to be appointed for civil posts shall be recruited with qualifications in Civil Engineering and those recruited in the Electrical Engineering shall possess qualification in Electrical Engineering, whereas candidates recruited for mechanical charges will be required to possess degree in Mechanical Engineering. In paragraph 7 of the written statement they have admitted that petitioner as well as respondent no.4 were appointed as Junior Engineer (Mechanical) on the basis of Diploma in Mechanical Engineering and that the petitioner was senior to respondent no.4 as Junior Engineer and later on both officers passed AMIE in Civil Engineering. A perusal of Annexure P-5 also shows that respondent no.4 and the petitioner both had acquired the degree of AMIE (Civil) after joining the Department as J.E

(Mechanical). Respondent no.4 was junior to the petitioner from the date of his appointment as per the merit prepared by Subordinate Services Selection Board, Haryana. In compliance of the order passed in CWP No. 9607 of 2010, the benefits of promotion had been granted to respondent no.4 at par with his junior i.e Sh. Sube Singh as SDO. Hence the claim of the petitioner is liable to be accepted for all intents and purposes.

In view of all that has been discussed above, present writ petition is allowed and a direction is given to the respondents to grant promotion to the petitioner to the post of SDO w.e.f 23.12.2005 as he was senior to respondent no. 4 in service with all the consequential benefits.

March 01, 2016
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(**RITU BAHRI**)
JUDGE