

C.O.C.P. No. 2860 of 2014 (O&M)

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. C.O.C.P. No. 2860 of 2014 (O&M)

Jaswant Singh Brar and othersPetitioners

Versus

Devender Singh and othersRespondents

2. C.O.C.P. No. 2861 of 2014 (O&M)

Om Parkash Kharub and othersPetitioners

Versus

Devender Singh and othersRespondents

DATE OF DECISION:25.10.2017

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. IP Goyat, Advocate
for the petitioners.

Mr. G.S. Wasu, Advocate
for the respondents.

DAYA CHAUDHARY, J.

C.M. No. 22399-CII of 2017

Application is allowed as prayed for.

C.M. No. 19964-CII of 2017

This application has been filed for placing on record affidavit explaining the position of the petitioner as per order dated 8.8.2017.

Application is allowed and affidavit is taken on record.

C.O.C.P. No. 2860 of 2014

The petitioners had approached this Court by way of filing

C.W.P. No. 10195 of 1993, which was disposed of vide order dated 20.3.2014 with a direction to the respondents to decide the claim of the petitioners in view of decision in C.W.P. No. 16330 of 2005 as well as LPA No. 657 of 1997.

Learned counsel for the petitioners contends that in the seniority list prepared by the respondents, the petitioners are admittedly senior but they are not being considered for promotion. He further contends that the respondents have committed Contempt of Court by not complying with the directions issued by this Court on 17.12.2004 in LPA No. 657 of 1997.

Learned counsel for the respondents submits that as the petitioners are not aggrieved by the seniority list, no contempt is made out against them.

Heard the arguments advanced by learned counsel for the parties and have also gone through orders dated 20.3.2014 passed in C.W.P. No. 10195 of 1993 and 17.12.2004 passed in LPA No. 657 of 1997.

The relevant portion of order passed in LPA No. 657 of 1997 on 17.12.2004 is reproduced as under:-

“The argument of Shri Sanjiv Bansal that respondents No.1 to 16 are stopped from challenging the promotions of respondent No. 17 to 31 because they had not questioned the bifurcation of the cadre of Engineering subordinates/Junior Engineers is clearly misconceived. It is an uncontroverted fact that the posts of Junior Engineers as well as Assistant Engineers were inter-transferable and no order bifurcating that cadre was issued by the competent authority. That apart, once it is found that the

cadre of Assistant Engineers is one, there could be no justification to deny consideration for promotion to respondents No. 1 to 6, who were admittedly senior to respondents No. 17 to 31.”

Undisputedly the petitioners have not challenged the seniority list prepared by the respondents but claiming promotion on the basis of their seniority. Vide orders dated 17.12.2004 passed in LPA No. 657 of 1997 and 9.1.2014 passed in C.W.P. No. 16330 of 2005, no direction was issued for promoting the petitioners. Simply, it was mentioned in the order dated 17.12.2004 passed in LPA No. 657 of 1997 that the cadre of Assistant Engineers and Junior Engineers is inter-transferable and common. In case the petitioners are senior and are eligible for promotion, they are having their right to claim promotion.

Since no direction was issued by this Court regarding promotion of the petitioners, no contempt is made out against the respondents.

In case any representation is moved by the petitioners for promotion keeping in view their seniority within a period of four weeks from today, the respondents are directed to consider the claim of the petitioners in accordance with law and rules applicable and pass a detailed speaking order. In case the petitioners are required to be heard, an opportunity of hearing be given to them.

Disposed of accordingly.

October 25, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No