

*CWP No.7948 of 1998 &
CWP No.17356 of 1998*

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1.)

CWP No.7948 of 1998
Date of Decision:-26.04.2017.

Dharam Singh, Electrician

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

(2.)

CWP No.17356 of 1998

Brij Bhushan Gautam, Electrician

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

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

Present: Mr. J.S. Maanipur, Advocate for the petitioner in
CWP No.7948 of 1998.

Mr. Anand Bhardwaj, Advocate for the petitioner in
CWP No.17356 of 1998.

Mr. Keshav Gupta, AAG, Haryana.

Mr. Gurinder Pal Singh, Advocate for respondent No.4.

P.B. BAJANTHRI, J. (Oral)

1.) By this order, the above two writ petitions shall be disposed of
as the controversy involved in both the cases is identical. For brevity, facts
are being extracted from CWP No.7948 of 1998.

2.) In the instant writ petition, the petitioner has questioned the validity of promotion of the 4th respondent vide Annexure P-11 dated 11.6.1997 and P-14 dated 22.1.1998. The petitioner's services were regularized against the Electrician Grade-II on 24.7.1980 where as the 4th respondent's services were regularized against the post of Electrician Grade-I w.e.f. 1.1.1987.

3.) Learned counsel for the petitioner submitted that posts of Electrician Grade-I and Grade-II merged w.e.f. 1981 to the extent of pay scale which were equated to both the cadre. Consequently, the posts of Electrician Grade-I and Grade-II are one and the same. Having regard to the date of regularization of the petitioner dated 24.7.1980 read with the date of regularization of 4th respondent i.e. 1.1.1987, the petitioner is claiming that he is senior to the 4th respondent. Hence, the order of promotion vide Annexure P-11 dated 11.6.1997 as well as rejection of the petitioner's claim for promotion vide order dated 22.1.1998 vide Annexure P-14 are under challenge. Learned counsel for the petitioner submitted that having regard to the common pay scale for Electrician Grade-I and Grade-II, there cannot be discrimination between Grade-I and Grade-II. If the date of regularization is taken then the petitioner is senior to the 4th respondent. Hence, he is also entitled for promotion on par with the 4th respondent. Hence, the order of promotion dated 11.6.1997 and rejection of the petitioner's claim vide order dated 22.1.1998 are liable to be set aside.

4.) The respondents contended that post of Electrician Grade-I and Grade-II are not common cadre. They are promotional cadre from Grade-II to Grade-I even though pay scale has been given common on 1.2.1981. The

Electrician Grade-I and Grade-II cannot be deemed to be common cadre for the purpose of promotion. In other words, it was submitted that post of Electrician Grade-I is higher than Electrician Grade-II. Therefore, the petitioner cannot contend that the petitioner is senior in the cadre of Electrician Grade-I on par with the 4th respondent. Question of merger of Electrician Grade-I and Grade-II has not taken place by means of amendment of the rules of recruitment. In the absence of such action by the official respondents, the petitioner's contention that posts of Electrician Grade-I and Grade-II are identical and having regard to the date of entry into service in the Electrician Grade-II by the petitioner dated 24.7.1980 read with the 4th respondent entry into the cadre of Electrician Grade-I i.e. 1.1.1987. The said contention is not tenable.

5.) Heard learned counsel for the parties.

6.) It is undisputed that the petitioner's services have been regularized against Electrician Grade-II on 24.7.1980 whereas the 4th respondent services have been regularized against the post of Electrician Grade-I w.e.f. 1.1.1987 which is higher cadre than the Grade-II. Therefore, the petitioner cannot compare service particulars of the petitioner to that of 4th respondent insofar as Electrician Grade-I is concerned. The petitioner's contention that both the Grade-I and Grade-II carries the same pay scale consequently, length of service is required to be taken into consideration for the purpose of promotion to the next higher cadre is concerned, it is hereby rejected for the reasons that post of Grade-I and Grade-II of Electrician has not been merged by means of any amendment to the rules of recruitment to the extent only one cadre of Electrician, in the absence of necessary

common. Merely pay scale attached to the post are common does not mean that there is a merger of 2 posts. Therefore, the petitioner's contention that he is senior to the 4th respondent is hereby rejected. Consequently, order of promotion dated 11.6.1997 and rejection of the petitioner's claim dated 22.1.1998 Annexures P-11 and P-14, respectively are upheld.

7.) Petitions stand dismissed.

8.) At this stage, learned counsel for the petitioner insisted that post of Electrician Grade-I and Grade-II are merged. However, no documents have been placed on record to that extent. In the absence of material like method of recruitment to the post of Electrician and common seniority list of Electrician so as to contend petitioner is senior to 4th respondent. The above contention is hereby rejected.

(P.B. BAJANTHRI)
JUDGE

April 26, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.