

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.4007 of 2016(O&M)
Date of Decision: 20.09.2017

Jagvir Singh & others

--Petitioners

Versus

State of Punjab and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. D.S. Patwalia, Sr. Advocate with
Mr. Sehajbir Singh, Advocate for the petitioners.

Mr. T.P.S. Chawla, D.A.G., Punjab.

Mr. Rupinder S. Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate for respondent no.3.

Ms. Harpriya Khaneka, Advocate for Intervenors.

TEJINDER SINGH DHINDSA.J

Petitioners herein filed the instant writ petition while serving as Junior Engineer (Civil) under the Department of Housing & Urban Development, State of Punjab.

The precise claim set up in the petition was for the issuance of a Writ of Mandamus for directing the respondent department to consider them for promotion to the post of Sub Divisional Engineers (Civil) by asserting that they were eligible to be considered as per Punjab Urban Planning and Development Authority (Employees Service) Regulations, 1999, as amended from time to time.

While issuing notice of motion the following order was passed by this Court on 29.2.2016:-

“Counsel inter alia submits that the petitioners are working as Junior Engineers (Civil) since the year 2012 and as per Regulation 8(4) of the Regulations (Annexure P-1),

appointment is to be made on merit-cum-seniority basis. The petitioners have the requisite 3 years' experience which is required for promotion to the post of Sub Divisional Engineer for the 14% posts for the employees having degree in civil engineering. In spite of the vacancies available and representation filed, the petitioners have not been promoted on account of the instructions dated 29.12.2000 (Annexure P-5) which provide that ACRs for 5 years are to be taken into consideration for promotion.

Notice of motion.

Notice re:stay also.

Mr. R.S. Sidhu, AAG, Punjab accepts notice on behalf of the respondent nos. 1 and 2 and prays for time to file reply. Requisite number of copies of the writ petition be supplied to him during the course of the day.

Adjourned to 09.05.2016, for service of respondent no. 2, who may be served by way of dasti process.”

Thereafter, the matter came up before this Court on 16.5.2017 and the following order was passed by this Court:-

“This petition came up inter alia with the submission that the petitioners are working as Junior Engineers (Civil) since the year 2012 and have three years experience. As required, they would be eligible for promotion to the post of Sub Divisional Engineer in the 14% posts reserved for the employees having Degree in Civil Engineering. The departmental examination is to be held for those persons who are appointed as Junior Engineer/Draftsman after 05.10.2010. The said examination is to be conducted by the Punjab Public Works Department or PUDA. Mr. Patwalia contends that having the requisite qualification, the only hindrance in the petitioners being considered for promotion is that they have not qualified or passed the departmental examination. The departmental examination to be conducted by Public Works Department has

not been conducted as on date. It is further contended that the department is in the process of appointing Sub Divisional Engineers through a direct recruitment and in case that process is allowed to continue, the petitioners would suffer in their seniority for no fault of theirs.

Notice was issued in the said matter.

Mr. Rupinder S. Khosla, Senior Advocate, with Mr. Sarvesh Malik, Advocate, has put in appearance on behalf of respondent No.3- PUDA, and submits that the Secretary, PWD and Principal Secretary, Department of Housing and Urban Development, have already held a meeting and it has been principally decided that PWD will shortly conduct the said departmental examination.

In view of the statement that is made by learned counsel for respondent No.3, it is expected that the departmental examination would be conducted as expeditiously as possible. In the meantime, the appointment letters to the direct recruits be not issued till such time as the petitioners herein are not considered for promotion. The exercise be completed within a period of three months since the petitioners herein have the necessary qualifications to be considered for promotion and are being put to a disadvantage for no fault of theirs on account of examination not being held.

CM stands allowed with the aforesaid observations.”

During the course of resumed hearing today learned senior counsel representing the petitioners apprises the Court that the petitioners have since been promoted as Sub Divisional Engineers (Civil) on 23.8.2017.

In the light of such development the instant petition has been rendered infructuous and is disposed of accordingly.

Suffice it to observe that by virtue of the main writ petition itself having been disposed of , interim orders dated 16.5.2017, passed by

this Court would cease to operate.

At this stage, learned senior counsel representing the petitioners would submit that the petitioners would have a subsisting right to claim benefit of ante dated promotion. Such issue is not being dealt with by this court. Claim, if any, in such regard raised by the petitioners is left open.

Pending applications, if any, shall also stand disposed of.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

20.09.2017

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No