

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

CM-16968-CWP-2017 in/and
CWP-25799-2017
Date of Decision:12.12.2017

Deepak Kundu and othersPetitioners

Vs.

State of Haryana and othersRespondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Rajwinder Singh, Advocate for
Mr. R.S.Randhawa, Advocate,
for the petitioners.

Mr. K.K.Gupta, Advocate,
for the applicants(in CM-16968-CWP-2017).

Mr.R.K.Doon, AAG, Haryana.

Mr.Surinder Singh, Advocate,
for respondent no.6.

AMOL RATTAN SINGH, J. (Oral)

Pursuant to notice having been issued in this petition, the respondents all stand served and have filed their replies, except respondent no.3, i.e. the Chairman of the Departmental Promotion Committee and respondent no.4, i.e. the Transport Commissioner, but with the reply filed on behalf of respondents no.1 and 2, i.e. the State and the Director General, State Transport.

Counsel for the respondents all point to the fact that as regards respondents no.5 and 6, i.e. Gurmail Singh and Balak Ram, Works Managers, they were initially not promoted as Works Managers in the year 2006 when their juniors were promoted from the post of Foremen, on account of disciplinary proceedings having been initiated against them under Rule 7.

Subsequently, however, vide an order dated 03.10.2017 in the case of respondent no.5, he was granted seniority in the rank of a Works Manager w.e.f. 01.06.2006, i.e. the date when his junior Sher Singh was promoted as a Works Manager. This was pursuant to the said respondent having a civil court decree passed in his favour, setting aside the punishment inflicted upon him in disciplinary proceedings.

Similarly, in the case of respondent no.6, Balak Ram, an order dated 04.03.2017 was passed (Annexure R-6/3 with his reply), by which he was given seniority as a Works Manager w.e.f. 27.12.2006, i.e. when his junior Naveen Kumar was promoted to the rank of a Works Manager. This was pursuant to his mercy appeal having been accepted by the Governor of Haryana, setting aside the orders of the Additional Chief Secretary, Government of Haryana, Department of Transport, imposing a punishment of stoppage of increments upon him.

Today CM-16968-2017 has also been listed alongwith this petition, in which the three applicants therein seek to be impleaded as parties to the petition, on the ground that this Court vide its order dated 13.11.2017, while issuing notice, had stayed promotions to the post of General Manager, such promotions otherwise being due to them consequent

upon the DPC meeting held.

Mr.Gupta, learned counsel appearing for the applicants, submits that as a matter of fact all three applicants, i.e. Gulab Singh, Ranvir Singh and Naveen Kumar, are senior to the petitioners in any case, they having been promoted as Works Managers in the years 2002 and 2007, with the petitioners having been appointed as Store Purchase Officers on 21.09.2010, vide a direct recruitment process.

Hence, obviously the contention of learned counsel for respondents no.5 and 6, as also the applicants in the aforesaid application, is that the said persons being senior to the petitioners simply by way of date of appointment, and there being no challenge to the rule with regard to fixation of any quota for appointment to the posts of General Managers from various feeder cadre posts, the stand of the petitioners is wholly untenable, (respondents no.5 and 6 and the applicants in CM-16968-2017 all having been promoted to the feeder cadre posts of Works Managers prior to the appointment of the petitioners as Store Purchase Officers).

Having considered the above, I agree with the contention of the counsel for the respondents (and the applicants), for the very simple and logical reasoning given hereinabove by them.

Consequently, this petition is dismissed, but with the liberty to the petitioners to file a similar one on the same cause of action, if they wish to challenge the validity of Rule 9 of Haryana Transport Department (Group A) Service Rules 1992 on the ground that a quota of promotion should be fixed for promotion to the post of General Manager, amongst different feeder cadres for that post.

The interim orders stand vacated.

It is made clear that the recommendations made by the DPC would not lapse only on account of delay in implementation thereof because of the pendency of this petition.

December 12, 2017

dharamvir

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO