

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

**CWP No.28860 of 2017
Date of Decision: 18.12.2017**

Jagtar Singh

....Petitioner

V/S

State of Punjab and others

....Respondents

BEFORE : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present : Mr. Vijay Lath, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant petition is to the order dated 04.12.2017 (Annexure P-15) passed by the Chief Engineer (South), Water Supply and Sanitation Department, State of Punjab, whereby the petitioner has been reverted from the post of Junior Engineer to that of Surveyor.

Learned Counsel for the petitioner has been heard at length and the case paper book has been perused.

Petitioner was promoted to the post of Junior Engineer on 25.06.2009. There is no dispute that the Statutory Rules namely Punjab Department of Water Supply and Sanitation Junior Engineers (Group 'C') Services Rules, 2006 hold the field. The method of appointment, qualifications and experience were laid down under Rule 5 and which stipulated that the appointment to the service shall be made in the manner as specified in Appendix 'B'.

The relevant extract of Appendix 'B' relating to the post of Junior

Engineer (Civil) is reproduced herein as under :-

<i>Percentage for appointment by</i>		<i>Method of appointment, qualifications and experience by</i>			
<i>Sr. No.</i>	<i>Designation of the post</i>	<i>Promotion</i>	<i>Direct Appointment</i>	<i>Promotion</i>	<i>Direct Appointment</i>
1	Junior Engineer (Civil)	Twenty five per cent	Seventy five per cent	Twenty five per cent by promotion in the following manner, namely:- (i) Six per cent from amongst the work Mushis, Work Mistris, Surveyors, Pipe Fitters, Plumbers, Store Munshis, Work Inspectors, Motar Mates, Working under the control of the Chief Engineer, who are matriculates or possess equivalent qualification, and have an experience of working on any one or more or these post for a minimum period of ten years, and who qualify the departmental examination as specified in rule 9;	Should possess Diploma in Civil Engineering or its equivalent from a recognized university or institution or any other equivalent qualifications recognized by the Government.

Perusal of the Statutory position clarifies that the posts of Junior Engineer (Civil) are to be filled up by resorting to the mode of promotion to the extent of twenty five per cent and seventy five per cent by direct recruitment. From the twenty five per cent quota for promotion, there is a feeder cadre of six per cent from amongst Work Munshi, Work Mistri, Surveyors, Pipe Fitter, Plumber, Store Munshi, Carpenter, Store Keeper, Masson, Work Inspector and Motor Mates etc., and who are matriculates or possessing equivalent qualification and having an experience of working on the post in question for a minimum period of ten years and subject to having qualified the departmental examinatlpon.

In the impugned order dated 04.12.2017 (**Annexure P-15**) it has been categorically recited that in the six per cent quota in feeder cadre, the name of the present petitioner stands entered at seniority No. 687-A as Surveyor, whereas the name of private respondent No.4 herein, Kiran Parkash is entered at seniority No.533 (Work Munshi). Such seniority

position in the feeder cadre pertaining to six per cent quota of promotion is not disputed. It is under such circumstances that the Appointing Authority has taken a view that private respondent No.4-Kiran Parkash has a prior right in Law to hold the promotional post of Junior Engineer as opposed to the present petitioner and who accordingly, has been directed to be reverted to his post of Surveyor.

Confronted with such a situation, Mr. Lath would make an attempt to impress upon this Court that the petitioner has been assigned an incorrect seniority position in the feeder cadre pertaining to six per cent quota.

Such submission is of no consequence.

The only challenge in the instant petition is to the reversion order. Petitioner has not laid any challenge to the seniority determined inter se the petitioner and private respondent relating to the feeder cadre. Under such circumstances, this Court would proceed on the premise that the seniority position reflecting the petitioner to be junior to the private respondent No.4 to be correct. In this view of the matter, no infirmity can be found in the impugned order of reversion dated 04.12.2017 (**Annexure P-15**).

This order was dictated in open Court. At this stage, Counsel prays for withdrawal of the petition seeking liberty to challenge the seniority list in which the present petitioner has been reflected junior to private respondent No. 4-Kiran Parkash.

As per prayer and submission made by the counsel, writ petition is disposed of as withdrawn with the liberty as prayed for.

It is however, clarified that the liberty that has been granted to the petitioner would not be construed as if this Court has condoned the aspect

of delay in the matter if there be any.

Writ petition stands disposed of.

December 18th 2017
Riya Grover

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*