

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

LPA No.2407 of 2016 (O&M)

Date of Decision : 09.10.2017

Haryana Roadways Engineering Corporation Ltd.

....Appellant

Versus

Dinesh Kumar and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

....

Present : Mr.Satyawan Ahlawat, Advocate
for the appellant.

.....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned
Single Judge dated 08.07.2016.

Respondent No.1 was promoted on 08.10.2008 as an
Accounts Officer. The promotion order was then amended on
27.07.2009 to make it subject to the approval of Haryana Bureau of
Public Enterprises. In fact two persons were promoted vide the same
resolution – one as a Junior Auditor and second the respondent No.1
as an Accounts Officer. The Bureau approved the new pay scale but
against the column of the respondent No.1 it was mentioned that no
post of Accounts Officer is sanctioned in the Corporation and his
salary was accordingly withheld. In a subsequent meeting held on
23.03.2010 the Board of the appellant passed a resolution for
creation of the post of Section Officer in the pay scale of Rs.9300-

34800+4000 grade pay. In the absence of any sanctioned post of the Accounts Officer the respondent No.1 gave his consent for the post of Section Officer on 06.05.2010. He then continued to discharge the functions of Accounts Officer but drew the salary of inferior post of Section Officer. Repeated requests to admit him to the salary of Accounts Officer failed to elicit any response. Thereafter, he served a legal notice to which a reply was submitted that the Haryana Bureau of Public Enterprises has not granted the approval for sanction of post of Accounts Officer. The learned Single Judge observed that there was nothing to bind the Corporation to the procedure of a prior approval by the Board of Public Enterprises and accepted the writ petition to allow the respondent No.1 to the benefits of the pay of Accounts Officer on which post he had worked since 2008.

Before us learned counsel for the appellant has contended that in the absence of any approval from the Haryana Bureau of Public Enterprises the arrangement in favour of respondent No.1 as an Accounts Officer was impermissible and thus he would not be entitled to any benefits.

On the previous date of hearing, we had posed this question in our order dated 11.07.2017 which is extracted herebelow:-

“There is nothing on record to show that the amendment had been effected in the Memorandum & Article of Association/bye-Laws/Standing Order of the Corporation to include a clause therein to the effect that Haryana Roadways Engineering Corporation Limited shall refer for

consideration and approval all such matters to the Finance Department/Haryana Bureau of Public Enterprises through the Administrative Department which are mandatorily required to be so referred in accordance with specified instructions issued by the State with regard to the revision of pay scales, creation/up-gradation of posts, amendment in service rules etc.

Prays for time.

Adjourned to 09.10. 2017.”

In response thereto the appellant has referred to clause 86(A) of the Articles of Association of the Corporation which is also extracted herebelow :-

“86A All such matters which are mandatorily required to be referred in accordance with the specified instructions issued from time to time by the Finance Department/HBPE such as revision of pay scales, creation/up-gradation of posts, amendment in Service Rules etc. alongwith the recommendations of the Board of Directors shall be referred for consideration and approval to the Finance Department/HBPE through the Administrative Department”.

It is not in dispute that this clause was inserted in 2016 and the appointment of the respondent No.1 took place in the year 2008. Evidently, this amendment carried out subsequently would have no bearing on the case of the promoted officer. We, therefore, do not find

any infirmity in the reasoning adopted by the learned Single Judge and decline interference more particularly when the appeal is barred by a delay of 91 days which we do not intend to condone.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

09.10.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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