

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.993 of 2008

Chhattisgarh Vidyut Mandal Abhiyanta Sangh, registered Society & Association of Engineers working in CG State Electricity Board, duly registered by the Registrar, Firms & Societies, bearing Regn. No.CG/197, through its Zonal Representative and authorized signatory Sharad Shrivastava, S/o Late Shri B.B. Shrivastava, aged 51 years, Occupation Service, Presently posted Additional Superintending Engineer (Communication), CSEB, Bilaspur (C.G.)

---- Petitioner

Versus

Chhattisgarh State Power Holding Company Ltd., Having its Registered Office at Sewa Bhawan, Dangniya, Raipur (C.G.) Through its Managing Director

---- Respondent

For Petitioner:	Mr. Ashish Shrivastava, Advocate.
For Respondent:	Mr. B.D. Guru, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/08/2018

1. The petitioner, which is an Association named and styled as Chhattisgarh Vidyut Mandal Abhiyanta Sangh, filed this writ petition claiming that members of the petitioner Association, who have been promoted on the posts of Executive Engineer and Superintending Engineer by order dated 7-5-1999 under the Time Bound Promotion Scheme (TBPS) issued by the erstwhile Electricity Board on 17-3-1999, be granted the benefit of seniority from the date of granting time bound promotion to them under the TBPS policy dated 17-3-1999.
2. Mr. Ashish Shrivastava, learned counsel for the petitioner Association, would submit that members of the petitioner Association have been granted the benefit of time bound promotion scheme from 7-5-1999, but they have not been given seniority from the date of their TBPS promotion on 7-5-1999 and they have been given seniority from the

subsequent date as such, they are entitled for seniority from the date of their promotion dated 7-5-1999.

3. Mr. B.D. Guru, learned counsel for the respondent, would submit that the petitioner Association is not entitled to file the instant writ petition without indicating for whose benefit the writ petition has been filed, even the names of Assistant Engineers and Superintending Engineers who are claiming seniority have not been mentioned in the writ petition separately. Even the service dispute is purely personal to a particular officer and it cannot be generalised to a petition, that too by an Association. Even otherwise, the TBPS policy clearly provides that the person promoted under the said scheme / policy will be only entitled for higher grade and he will be entitled for seniority once he is absorbed and he assumes the charge on the said post, as such, the writ petition is not maintainable and deserves to be dismissed.
4. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the record with utmost circumspection.
5. In order to decide the plea raised at the Bar, it would be appropriate to consider the meaning of Time-Bound Promotion. Time-bound promotion is a grant of higher pay scale to the persons holding the post as on account of large number of employees who are not likely to get their promotion in the near future because of their comparatively low position in the seniority list and in order to relieve frustration among them, the employees are to be given a higher grade in terms of emoluments while retaining them in the same category. Such a time-bound promotion does not affect the normal seniority of those higher up.
6. The Supreme Court in the matter of Dwijen Chandra Sarkar and

another v. Union of India and others¹ highlighting the object of time-bound promotions pertinently observed as under:-

“11. However, the position in regard to “time-bound” promotions is different. Where there are a large number of employees in any department and where the employees are not likely to get their promotion in the near future because of their comparatively low-position in the seniority list, the Government has found it necessary that in order to remove frustration, the employees are to be given a higher grade in terms of emoluments - while retaining them in the same category. This is what is generally known as the time bound promotion. Such a time-bound promotion does not affect the normal seniority of those higher up.”

7. The Supreme Court in the matter of **Union of India and others v. M. Mathivanan**² followed the principles laid down in **Dwijen Chandra Sarkar** (supra) with approval.
8. In the matter of **Sanjay K. Sinha-II and others v. State of Bihar and others**³, Their Lordships of the Supreme Court have held that in order to become a member of the service the person concerned has to satisfy at least two conditions – first, appointment must be in substantive capacity, and second, the appointment has to be to the post in the service according to the Rules and within the quota to a substantive vacancy.
9. Finally, in the matter of **Sunaina Sharma and others v. State of Jammu and Kashmir and others**⁴ the Supreme Court has held that normally seniority must be reckoned only from the date person entered into service after noticing the earlier judgments on the point and held as under:-

“15. From the judgments referred to hereinabove it is apparent that the normal rule is that a person is entitled to seniority only from the date when the said person actually

1 (1999) 2 SCC 119

2 (2006) 6 SCC 57

3 (2004) 10 SCC 734

4 (2018) 11 SCC 413

joins the post. True it is, that there are exceptions and sometimes "in service" candidates can be granted promotion from a date anterior to their being regularly promoted/appointed. However, this can be done only if the rules enable retrospective appointment and on fulfilling the other requirement of the Rules."

10. After having noticed the meaning and purport of Time-Bound Promotion and principles governing grant of seniority, reverting to the facts of the present case, it is quite apparent that members of the petitioner Association, for whose benefit the writ petition has been filed, have not been named anywhere in the writ petition nor any document has been filed in that respect along with the writ petition indicating that they are the affected persons and for redressal of their grievance, this writ petition has been filed. The benefit of time bound promotion has been granted by the then M.P. Electricity Board by order dated 7-5-1999 and the present writ petition has been filed on 7-2-2008 by the Association. It has conveniently been declared in para 4 of the writ petition that there is no delay in preferring the writ petition, whereas in the matter of seniority, prompt filing of writ petition is imperative, as issuing any direction to grant seniority at the belated stage will unsettle the settled matter, as such, the writ petition suffers from delay and laches.

11. The Time Bound Promotion Scheme policy dated 17-3-1999 states as under: -

मध्यप्रदेश विद्युत मण्डल
आदेश

क्रमांक-01-13/3676/397

जबलपुर, दिनांक-17/03/1999

मण्डल में विभिन्न श्रेणी के अभियन्ताओं तथा रसायनज्ञों के पदोन्नति में वर्तमान में होने वाले विलम्ब को ध्यान में रखते हुए मण्डल द्वारा सिद्धांत रूप से निम्नलिखित निर्णय लिये गये हैं:-

- (1) 9 वर्ष की सेवा के पश्चात् ऐसे सभी सहायक अभियन्ता/पाली रसायनज्ञों को कार्यपालन अभियन्ता/वरिष्ठ रसायनज्ञ का उच्चतर वेतनमान प्रदाय होने पर पद का नाम सहायक अभियन्ता/पाली रसायनज्ञ में "अतिरिक्त कार्यपालन अभियन्ता/अतिरिक्त वरिष्ठ रसायनज्ञ" किया जावे । इस बदले हुए पदनाम के पश्चात् भी वे कार्य सहायक अभियन्ता/पाली रसायनज्ञ का ही कार्य करते रहेंगे तथा वेतन तथा अन्य भत्तों में भी इस परिवर्तित पदनाम का कोई प्रभाव नहीं पड़ेगा साथ ही इससे सहायक अभियन्ताओं/पाली रसायनज्ञों की वरिष्ठता सूची एवं वरिष्ठता पर भी कोई प्रभाव नहीं पड़ेगा ।
 - (2) उपरोक्त नये पद-नाम "अतिरिक्त कार्यपालन अभियन्ता/अतिरिक्त वरिष्ठ रसायनज्ञ" को श्रेणी एक का पद माना जावेगा ।
 - (3) 18 वर्ष की सेवाकाल के पश्चात् ऐसे कार्यपालन अभियन्ताओं/वरिष्ठ रसायनज्ञों को, अधीक्षण अभियन्ता/मुख्य रसायनज्ञ का उच्चतर वेतनमान प्राप्त होने पर, पद-नाम "अतिरिक्त अधीक्षण अभियन्ता/अतिरिक्त मुख्य रसायनज्ञ" कर दिया जावे । पद-नाम परिवर्तन जैसा कि इंगित किया जा चुका है, किसी भी अन्य सेवा संबंधी शर्तों/मुद्दों को प्रभावित नहीं करेगा ।
2. उपरोक्त निर्णयों के साथ-साथ निम्नानुसार नीति-निर्धारण भी किया गया है:-
- 01/ प्रशिक्षण अवधि मिलाकर 15 वर्ष की सहायक अभियन्ता/पाली रसायनज्ञों के पद पर सेवा अवधि पूर्ण कर चुके अभियन्ताओं/रसायनज्ञों को पद उच्चीकृत कर कार्यपालन अभियन्ता/वरिष्ठ रसायनज्ञ के पद पर पदोन्नति प्रदान की जावेगी । इसी प्रकार प्रशिक्षण अवधि मिलाकर कुल 23 वर्ष की सेवा अवधि पूर्ण कर चुके सहायक अभियन्ता/पाली रसायनज्ञ के पद से कार्यपालन अभियन्ता/वरिष्ठ रसायनज्ञों को पद उच्चीकृत कर अधीक्षण अभियन्ता/मुख्य रसायनज्ञ के पद पर पदोन्नति प्रदान की जावेगी ।
 - 02/ वर्तमान में जिन सहायक अभियन्ताओं को कार्यपालन अभियन्ता के पद पर उपरोक्त निर्णय के फलस्वरूप पदोन्नति होगी उन्हें द्वितीय उच्चतर वेतनमान 18 वर्ष की सेवा पूर्ण करने की दिनांक से (अथवा बाद के उस दिनांक से जिससे वे अपना विकल्प प्रस्तुत करें) दिया जावे ।
3. उपरोक्त निर्णयों के कार्यान्वयन हेतु यथोचित नियम/शर्तें/निर्देश अलग से जारी किये जावेंगे ।

आदेशानुसार
सही/- हस्ताक्षर अस्पष्ट
सचिव,
मध्यप्रदेश विद्युत मण्डल, जबलपुर

promotion would not affect the seniority and gradation and it will be as per their substantive post and the officers promoted under this scheme will be remain posted in their respective posts.

13. In view of the aforesaid clause in the policy itself and in view of the settled legal position, officers promoted under the TBPS policy are not entitled for seniority from the date of their promotion under the TBPS policy on the posts of Executive Engineer and Superintending Engineer. In view of the above, as the petition suffers from delay and laches and is also not maintainable at the instance of Association, I do not find any merit in the petition. The writ petition deserves to be and is accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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