

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

CWP No. 13498 of 2011.

Date of Decision: 14.11.2018.

Ajaib Singh and another ... Petitioners
Versus

The Punjab State Power Corporation Ltd. and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Harinder Sharma, Advocate,
for the petitioners.

Mr. Y.P. Khullar, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioners seek quashing of the letter dated 14.07.2008 (Annexure P-3) vide which the method of counting seniority had been altered; memo No. 4386/5010/SLT-9/DH/Lineman V.3 dated 18.03.2009 (Annexure P-5) vide which a fresh seniority list of Assistant Junior Engineers (Senior Linemen) was framed and letter dated 29.04.2011 (Annexure P-7) vide which the cases of respondent Nos. 7 to 89 were called for promotion to the post of Junior Engineers (Electrical).

The facts of the case are that petitioners were appointed as Linemen on 01.10.1985 and 30.07.1986 respectively on regular basis. During service, the petitioners acquired Diploma in Electrical Trade on 31.12.2001 and 30.12.2003 respectively from Guru Tegh Bahadur Polytechnic village Rode, District Moga. The mode of

selection to the post of Junior Engineer (Electrical) is 60% by way of direct recruitment and 40% by way of promotion amongst Linemen. The inter se seniority between the members is governed by rule 13 of the Technical Services Rules, 1997 which provides that inter-se seniority of a member in each cadre of service shall be determined on the basis of continuous length of service from the date of appointment in that cadre. The respondents, vide letter dated 18.03.2009 (Annexure P-5), have recast the seniority of the petitioners by placing them at Sr. No. 222 and 227.

It is contended that the petitioners are senior to private respondent Nos. 7 to 89. The petitioners had completed 16 years of service as Linemen on 30.09.1985 and 29.07.2002 respectively. The petitioners had passed the diploma much earlier to the decision taken by the Board for carving out quota of 5% for the qualified diploma holders Lineman and were eligible for consideration prior thereto.

On the other hand, the stand of the respondents is that vide letter dated 14.07.2008, it was decided that in case two or more members of Diploma Holder Linemen become eligible for promotion to the rank of J.E. on fulfilling the requisite condition against 5% Diploma Holder quota, the seniority shall be determined on the basis of acquisition of prescribed qualification of three years' Diploma course in point of time subject to the condition of completion of minimum 16 years' service at the time of actual promotion. Hence

the change in the seniority list has been made as per instructions of the Corporation.

Heard.

It is to be seen that vide office order No. 534/ENG-20(9) Vol.2 dated 21.08.2006, the method of determining seniority of Junior Engineers (Electrical) was changed. It has now been provided that whosoever acquires qualification of 3 years' Diploma course first in point of time, he will be treated as senior in the cadre of Junior Engineers irrespective of length of service rendered by the employee. Such a criteria is against the jurisprudence of service rules. The classification made by the respondent-department cannot be said to be having a nexus with the object sought to be achieved and cannot be allowed to be perpetuated. Consequently, the present civil writ petition is allowed. The impugned seniority list (Annexure P-5) is set aside. The letter dated 14.07.2008 (Annexure P-3) and letter dated 29.04.2011 (Annexure P-7) are also set aside.

14.11.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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