

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

CWP-19898-2011

Date of Decision:02.02.2018

L.N. Mishra

... Petitioner

Vs.

Bhakra Beas Management Board and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Rishabh Gupta, Advocate for the petitioner.
Mr. Eklavya Gupta, Advocate for the respondents.

P.B. BAJANTHRI J. (Oral)

Short question for consideration in the present petition is whether petitioner is entitled to promotion to the post of UDC with effect from 30.11.1995 on which date one Shri Sanjeev Kumar was promoted.

2. Prior to 3.5.1995 for the purpose of promotion to clerical cadre, one must have passed departmental accounts examination for ministerial establishment in Bhakra Beas Management Board. Undisputedly, Shri Sanjeev Kumar who was junior to the petitioner was promoted to the post of UDC on 30.11.1995. Whereas name of the petitioner has not been considered. Respondents evolved a policy on 3.5.1995 by which a clerk who has completed 18 years of service is exempted from passing departmental accounts examination for ministerial establishment in Bhakra Beas Management Board. Such a policy was in vogue till 8.7.1999 the date on which policy dated 3.5.1995 was withdrawn. Thus treating the intervening period from 3.5.1995 to 8.7.1999, a clerk who has completed 18 years service was not required to pass departmental accounts examination for ministerial establishment in Bhakra Beas Management Board. Therefore, petitioner's name should have been considered while promoting his junior namely Shri Sanjeev Kumar on 30.11.1995.

3.

Learned counsel for the respondents submitted that Shri

Sanjeev Kumar who is junior to the petitioner had passed the prescribed departmental accounts examination for ministerial establishment in Bhakra Beas Management Board. Therefore, his name has been considered for the purpose of promotion on 30.11.1995 and he has been promoted. Whereas petitioner had not passed prescribed examination to promote him. Thus, petitioner has not made out a case.

4. Heard.

5. Perusal of Annexures P-1 and P-2, it is evident that during the period from 3.5.1995 to 8.7.1999, there was an exemption from passing departmental accounts examination for ministerial establishment in Bhakra Beas Management Board for the purpose of promotion. Therefore, in not considering the petitioner's name for promotion to the post of UDC on par with Shri Sanjeev Kumar may not be correct. It is arbitrary and contrary to policy dated 3.5.1995.

6. Accordingly, communication dated 9.8.2011 (Annexure P-9) is set aside. Respondents are directed to consider the petitioner's name for promotion to the post of UDC if he fulfills the requisite qualification except passing of departmental accounts examination for ministerial establishment in Bhakra Beas Management Board in view of exemption as on the date of Shri Sanjeev Kumar was promoted as UDC. If the petitioner is otherwise eligible, he be promoted from 30.11.1995 and extend all consequential and monetary benefits within a period of four months from today.

7. Petition stands allowed accordingly.

02.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**