

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

CWP No. 25890 of 2012 (O&M)

Date of decision: 30.08.2018

Hardev Singh and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. K.L. Arora, Advocate for the petitioner(s).

Ms. Harsimrat Rai, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, the petitioners seek issuance of directions to the respondents to complete the backlog of promotion quota in respect of category(iii) of the petitioners and further to promote them to the post of JE (Electrical) from the admissible date along with all consequential benefits.

The petitioner joined the respondent-Department as Electrician Helper and subsequently were promoted as electricians and given promotion post of JE (Electrical) as an additional charge which they held about four years. Similarly, on the recommendation of Superintending Engineer, their case was forwarded to Chief Engineer for promotion to the post of JE (Elec.). However, they were relieved from the additional charge of the post of JE and the charge was taken on 25.05.2012. In the meantime, respondents had issued an advertisement in

the month of June, 2012 for filling up direct 47 posts of JE, out of which 20 posts are meant for general category. It is pertinent to mention here that 75 posts of JE (Electrical) had already been filled up by the Department, out of which 45 posts had been filled by way of direct recruitment and 30 posts had been filled by way of promotion. As per the mandate and rules, 75% posts are to be filled up by direct recruitment from amongst candidates who possess a diploma in Electrical Engineering from a recognized institution and 25% posts by way of promotion. Under the 25% quota, there is a further classification of 10% from amongst Electricians working under the control of Chief Engineer, who are matriculates and who have obtained Competency Certificate and have experience of working as such for a maximum period of 10 years and have also passed qualifying examination, therefore, learned counsel contends that petitioners are covered under 10% promotion quota. Out of 47 posts which are going to be filled up, no post has been earmarked for the category of the petitioners.

It is contended that the case of the petitioners is governed by the Punjab, Department of Public Works (Building and Roads) Junior Engineers (Class-III) Service Rules, 1993 (for short 'the Rules') and they being senior are fully qualified for their promotion against the 10% promotion quota under the said Rules. He further refers to the order passed in CWP-13002-2012 whereby the respondents were directed to pay the salary for the period the petitioner had worked on additional charge on post of JE. The petitioners being matriculate and having

certificate of competency with ten years of experience falls under the category Rule 8(B)(b)(iii), whereby 10% quota has to be given to this category.

On the other hand, learned State counsel submits that the petitioner did not participate in the qualifying examination conducted on 09.05.2017 and 10.05.2017 as specified in Rule 9, therefore, they were not given the benefit of promotion. At this stage, learned counsel for the petitioners refers to the reply dated 14.07.2017, wherein in para No.3 of the preliminary submission, it has been stated that no specified syllabus for conducting the examinations for Junior Technician and Technician Grade-II was approved till 2014, therefore, no such examination had been conducted till then. However, the syllabus was framed on 22.01.2014, the departmental examination was proposed to be conducted on 27.04.2017 and 28.04.2017 respectively.

Heard, learned counsel for the parties and perused the record minutely.

Admittedly, the petitioners were given the additional charge of Junior Engineer (Electrical) by the respondents which they held for about four years, though was subsequently withdrawn. The petitioners are claiming promotion to the post of Junior Engineer (Electrical) which was denied to them without any reasonable ground. The stand of the State is that the petitioners have not qualified the requisite examination, whereas, as noticed above, prior to 27.04.2014, no such test was ever conducted. It has also been stated that 13 posts were earmarked to be filled up by

promotion from amongst the electricians and this category is further sub divided into two categories i.e. Technician Grade-II and Junior Technician but there is no mention under which Rules, the sub categorization had been carried out. Even, the State reply is silent about this aspect of the matter. It is not the case of the State that the petitioners do not possess the requisite experience or qualification. Once they were given the additional charge of the post on being found eligible to occupy the post in question, then denial of regular post to them is not justifiable.

In view of the above, the present petition is allowed. The respondents are directed to promote the petitioners on the post of Junior Engineer (Electrical) from the date of their due promotion along with all other consequential relief within a period of three months from the date of receipt of certified copy of the order.

30.08.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No