

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

CWP No.20800 of 2016 (O&M)

Date of decision: 22.05.2018

Jatinder Singh Chhina

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ramesh Goyal, Advocate with
Mr. Arihant Goyal, Advocate for the petitioner(s).

Ms. Monica Chhiber Sharma, Sr. DAG, Punjab.

Mr. Gurminder Singh, Sr. Advocate with
Mr. RPS Bara, Advocate for respondent No.3.

Jitendra Chauhan, J. (Oral)

CM-7728-CWP-2018

Allowed as prayed for, subject to all just exceptions.

Main Case

By way of the present petition, the petitioners seek issuance of a writ in the nature of certioria and quo warranto for quashing the agenda note (Annexure P-9) and the DPC minutes dated 26.05.2016 (Annexure P-10) qua respondent No.3 whereby, respondent No.3 has been promoted in utter disregard of the Punjab Service of Engineers (Electrical Wing) Department of Public Works (B&R Branch) Group 'A' Service Rules, 2005 and the Punjab Civil Service (General and Common Conditions of Service) Rules, 1994.

It is contended that the Departmental Promotion Committee promoted respondent No.3 who being ineligible as had not completed the mandatory experience of six years on 18.12.2016 at the time of promotion, whereas, the petitioner had completed the mandatory experience on the post of Executive Engineer on 29.10.2013 and thus, was fully eligible for the post of Superintending Engineer. The name of respondent No.3 is at Sr. No.5 in the seniority list dated 13.07.2015, whereas, the petitioner's name figured at Sr. No.3; the two persons who are senior to the petitioners, namely Inderjit Kaur and Amit Kumar Goyal had already retired, therefore, the petitioner being senior most and having requisite experience deserves to be promoted to the post in question. However, the respondents have promoted respondent No.3 in an arbitrary manner.

On the other hand, the stand of the respondents is that on the basis of interim directions dated 10.02.2016 issued by this Court and the statutory provision of reservations for the members belonging to the 'persons with disabilities', the name of respondent No.3 was considered by the DPC and his name was recommended and the recommendations were to be implemented after 18.12.2016, on acquiring the prescribed experience by respondent No.3 under DPC Rules.

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

As per record, the post in question became available in the year 2014 at roster point No.11 which had been earmarked for handicapped category. The petitioner being a general category candidate

was also considered for the post in question in the DPC dated 26.05.2016, however, he being junior to Inderjit Kaur as admitted above, was not promoted to the said post and said Inderjit Kaur was promoted against roster point No.12. During the course of arguments, it has been pointed out by learned counsel for respondent No.3 that after superannuation of Inderjit Kaur, the post had fallen vacant in the year 2017 but the same was given by the department to one Roop Chand being backlog of reserve category who was stated to be junior to the petitioner. The said promotion order was not challenged by the petitioner. Admittedly, respondent No.3 belongs to handicapped category and he was promoted against the post meant for handicapped category. It is not in dispute that the requisite experience for the post of Superintending Engineer is six years as Executive Engineer. The argument of learned counsel for the petitioner that respondent No.3 does not have the requisite experience of six years is not tenable as he was promoted only from the date after he had acquired the requisite experience of six years.

In view of the above, this Court finds no merit in the instant petition and the same is hereby dismissed.

22.05.2018

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(JITENDRA CHAUHAN)
JUDGE

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