

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.15769 of 2018

Date of Decision:-03.07.2018

Shiv Kumar.

.....Petitioner.

Versus

Punjab State Power Corporation Limited & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.

Present:- Mr. Sunny Singla, Advocate &
Mr. Saurabh Bhardwaj, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner was appointed as a Junior Engineer (Electrical) on 15.06.2010 by the Punjab State Power Corporation Limited. He was promoted as officiating Assistant Engineer vide order dated 30.06.2015 (P-16).

The ACR of the petitioner for the year 2010-11 was graded as Below Average by the Reporting Officer affirmed by the Accepting Authority. Petitioner is stated to have filed an appeal and the Appellate Authority vide order dated 13.03.2014 upgraded the remarks to be read as "Average" in the ACR for the year 2010-11. The Appellate Authority upon reconsideration vide order dated 31.10.2014 (P-14) has withdrawn the previous order P-10, thereby restored ACR for the year 2010-11 to be "Below Average". The petitioner had already acquired the qualification of AMIE and had also passed the departmental examination after joining as Junior Engineer and thus was eligible for consideration for promotion to the post of Assistant Engineer on completion of three years as Junior Engineer.

However, in the light of his adverse remarks for the year 2010-11 he could

not fulfill the benchmark and was thus ignored for promotion to the post of Assistant Engineer in October 2013.

Petitioner by filing the present writ petition is (i) *seeking retrospective promotion to the post of Assistant Engineer w.e.f. October 2013 & (ii) as also laid challenge to the order dated 30.10.2014 (P-14) whereby the adverse remarks in the ACR for the year 2010-11 were restored to be read as “Below Average”.*

After hearing counsel for the petitioner at length, no ground for invoking the writ jurisdiction is made out on the ground of delay and laches.

It is conceded that even a Civil Suit would not be maintainable to challenge the order dated 30.10.2014 (P-14) whereby the adverse ACR was restored much less extraordinary writ jurisdiction under Article 226. Although an oral effort/argument has been made to suggest that the benchmark due for consideration for promotion in October 2013 were not correctly computed, however, no material has been placed to substantiate the same. Even otherwise the claim qua retrospective promotion would also be hit by principle of delay and laches as it is settled position of law that in case of even statutory appeals are not decided within reasonable time, the writ jurisdiction has to be invoked at the most within one year of the filing of the statutory remedy. Present writ petition has been filed concededly after four and a half years.

In view of the above, present writ petition is hereby **dismissed**.

(JASWANT SINGH)
JUDGE

July 03, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>