

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 19.04.2018****CWP No.24578 of 2014**

Jagmal Singh & others

...Petitioners

Vs.

Haryana State Electronics Development Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Deepak Sonak, Advocate, for the petitioners.

Mr. Pankaj Gupta, Advocate, for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

In this petition, challenge is to three separate orders dated 12.03.2014 (Annex P-6, P-7 & P-8), which decide the grievances of the petitioners as per the directions of this Court in CWP No.23318 of 2013 titled 'Jagmal Singh & others Vs. Haryana State Electronics Development Corporation Limited' filed by the present petitioners in the case decided on 23.10.2013. The claim for deemed date promotions has been declined by the Haryana State Electronics Development Corporation Limited (HARTRON) for the reason that there are different fields like Electronics, Instrument Servicing, Optics, Electroplating, Electro-Mechanical/Mechanical, Electrical, Civil etc. in HARTRON and promotions were to be made only in the same field.

The dispute as to whether promotions should be made field-wise or as though the cadre of Assistant Engineer is single, was brought for determination before the Civil Judge (Junior Division), Gurgaon in Civil Suit No.206/21.11.1998/07.11.2007 by the plaintiff Ved Parkash, who is respondent No.2 in the present petition. Ved Parkash filed suit against S.C.Gupta claiming promotion from the date S.C.Gupta was promoted i.e. 16.07.1993. The Civil Court on the materials on record held that the cadres of the plaintiff and the defendants are the same, that is, the research and development as is evident from the evidence. To confirm the view, the Civil Court found the documentary evidence brought by PW-2 to the effect that one D.S.Sanghwan was working as S.E. (Mechanical), but was from the electronics background. The statement of PW-2 was corroborated by the testimony of DW-1 produced by the Department. The trial Court concluded that the plaintiff should have been considered for promotion from the date the junior was promoted, if there was no other ground to show that he was not capable of being promoted to the higher post. Accordingly, the suit was decreed. The first appeal filed by the HARTRON was dismissed. The Regular Second Appeal and the Special Leave Petition filed by the HARTRON met with the same fate. The decree of the Civil Court attained finality. After the dismissal of the SLP, the orders have been implemented in the case of plaintiff Ved Parkash by order dated 09.05.2013 (Annex P-10). Ved Parkash has been granted promotion from the date S.C.Gupta was promoted as Assistant Engineer (Civil) and Deputy Engineer (Civil). The present three co-petitioners are admittedly senior to S.C.Gupta.

The short point to be decided in this case is; whether the petitioners have a right to deemed date promotion with effect from the date

S.C.Gupta stands promoted. The answer is obviously in the affirmative to carry forward the mandate of equality before the law settled that senior should remain senior in service and the act denying the petitioners deemed date promotions from 16.07.1993 as Assistant Engineer and 16.02.2004 as Deputy Engineer are erroneous. The inter se seniority position is confirmed by the seniority list (Annex P-1). There can be no dispute that the three petitioners are senior to S.C.Gupta and, therefore, this petition has to succeed.

Accordingly, while allowing the instant petition, the impugned orders dated 12.03.2014 (Annex P-6, P-7 & P-8) are quashed.

It may be noticed that petitioners No.1 & 2 are retired, while petitioner No.3 is in service. The petitioners will be deemed to have been promoted as Assistant Engineers and Deputy Engineers from the dates mentioned in the order Annexure P-10. The petitioners will be entitled to all non-pecuniary benefits as a result of the declaration regarding seniority. The actual benefits to the petitioners including arrears of difference of salary etc. will be admissible from 38 months prior to the filing of the writ petition. Consequential orders shall be passed in the cases of petitioners No.1 & 2 and the amount due to them shall be disbursed to them within eight weeks from the date of receiving of certified copy of this order. Petitioner No.3 will be shown senior to the private respondent for service benefits.

There will be no order as to costs.

19.04.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

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