

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

**CWP No. 9564 of 2018
Date of Decision: 20.04.2018**

Darshan Kumar Garg

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.S. Sahu, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner claims period spent on current duty charge be counted towards service experience for promotion to the post of Sub-Divisional Officer (SDO). Two years experience is required on the promotional post before candidate can be considered for further promotion to the higher post. The current duty charge was called 'Look After Charge" by the order Annex. P-2 on the post of SDO in the Irrigation and Water Services Department to Assistant Sub-Divisional Engineers in their own pay-scale w.e.f the date of the order i.e. 05.12.2013. Condition No. 2 & 3 of the CDC are relevant for decision in this case and the same are reproduced as follows:

"2. The above arrangement is purely as stop gap arrangement and can be discontinued at any time without any notice.

3. *The above officials shall not be entitled any benefits i.e. pay scale/salary/allowance/seniority etc. of the post of Sub Divisional Officer.”*

2. Since the charge was on the ground duty and gave no benefit of pay-scale, seniority etc. of the post of SDO, the petitioner cannot claim as of right promotion to the higher post when he does not fulfil the experience of 8 years on the post of the SDO. Besides, no person has been promoted who is junior to the petitioner.

3. Accordingly, I find no merit in this petition and would dismiss it.

4. Needless to say, when his turn for promotion comes, the Department will consider his case for promotion as per rules. The service is governed by the provisions of the the Haryana Service of Engineers Group 'B' Irrigation Department Act, 2010 notified on 25.10.2010 (Annex P-7). Section 6(b) deals with qualifications prescribed for promotion. Rule 6 provides that no person shall be promoted after 25.10.2010 in the Department who does not possess the degree of AMIE and (b) has rendered 8 years of service as Sub-Divisional Officer and of passing a departmental examination of Group D service. Proviso to Section 6(b) allow relaxation by Government of the condition of 8 years in case of an officer who has completed 5 years service. Even these 5 years have to be of service and not experience. This makes the vital difference when the rule prescribes experience by

years of service earned after full charge of the post on substantive promotion. Therefore, experience gained on CDC has no place in the scheme and criterion under Section 6 of the Act. Consequently, the decision relied upon in Chandigarh Administration Vs. Vipin Gupta and another, 2011 (2) SCT 560 is of no help to the petitioner as it is distinguishable.

5. In view of the above, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2018

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Whether speaking/reasoned : *Yes*
Whether reportable : *No*