

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

**RSA-3456-2017**

**Date of Decision:05.02.2018**

Haryana Urban Development Authority and another

... Appellants

Vs.

Sumer Singh

... Respondent

**CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI**

Present : Mr. B.R. Mahajan, Sr. Advocate with  
Mr. Anil Chawla, Advocate for the appellants.

**P.B. BAJANTHRI J. (Oral)**

In the instant appeal, appellants have questioned the validity of concurrent finding given by the courts below.

2. Question for consideration in the present appeal is whether 10 years of experience in the cadre of Supervisor (Horticulture) for the purpose of promotion to the post of Junior Engineer (Horticulture) could be insisted with reference to holder of the post of Horticulture Supervisor in a regular post namely regular holder of the post of Horticulture with 10 years alone can be entitled for promotion to the post of Junior Engineer (Horticulture). Haryana Urban Development Authority Service's Regulation 1989 (for short "Regulation 1989") provides for filling up of various posts including Supervisor (Horticulture) and Junior Engineer (Horticulture). Respondent was initially appointed as Head Mali on work charge basis w.e.f. 28.02.1979. Later on he was promoted as Horticulture Supervisor w.e.f. 24.06.1980. Thereafter he was promoted as a Junior Engineer on 17.12.1987 on ad hoc basis and on regular basis w.e.f 17.12.1997.

3. Grievance of the respondent is that he is entitled to promotion to the post of Junior Engineer (Horticulture) as and when he completed 10 years of service in the cadre of Supervisor (Horticulture) i.e in the year 1990 with reference to initial appointment on ad hoc basis to the post of Supervisor (Horticulture) on 24.6.1980.

4. Learned counsel for the appellant submitted that having regard to the experience stipulated for the purpose of promotion to the post of

Supervisor (Horticulture) i.e. 5 years experience in the field of Horticulture under Regulation 1989. Whereas respondent has not completed 5 years of experience in the cadre of Head Mali so as to entitle him to the post of Supervisor (Horticulture) on 24.6.1980. Therefore, respondent is entitled to the post of Supervisor (Horticulture) with reference to 5 years experience in the post of Head Mali. Thereafter, 10 years of experience for the purpose of promotion to the post of Junior Engineer (Horticulture). Thus, courts below have erred in extending the benefit as claimed by the respondent.

5. Crux of the matter is whether experience of 10 years in the cadre of Supervisor (Horticulture) would be with reference to holding of regular post or not?

6. Method of recruitment to the post of Supervisor (Horticulture) and Junior Engineer (Horticulture) reads as under:

| 1 | 2                              | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 4                                                                                                                              | 5                                                                                   |
|---|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|   | Junior Engineer (Horticulture) | B.Sc. in Agriculture with experience of atleast one year. Preference may be given to those person who possess Horticulture as main subject in B.Sc.<br><br>OR<br>Matric/Higher Secondary with one year diploma course in gardner's training class from some recognised university with atleast 6 years experience in land scaping, gardenig, alboriculture, floriculture layout of gardens, parks and nersery production work.<br><br>ii) Knowledge of Hindi upto Matric | <b>Supervisor (Horticulture) with 10 years experience.</b>                                                                     | 80% posts will be filled up by direct recruitment and 20% by promotion              |
|   | Horticulture Supervisor        | B.Sc. Agriculture<br>OR<br>Diploma Holder in Horticulture<br>OR<br>Matriculate with knowledge of Horticulture for 3 years                                                                                                                                                                                                                                                                                                                                                | a) Head Mali having Diploma in Horticulture or Matric with Hindi<br><br>b) Five years experience in the field of Horticulture. | 75% posts will be filled up by direct recruitment and 25% by promotion from Malies. |

7. Respondent was posted as a Supervisor (Horticulture) on 24.6.1980 on ad hoc basis without there being any break. Regulation 1989 is not applicable for the purpose of respondent's posting as Supervisor

(Horticulture) that he is required to gain 5 years of experience in the field of Horticulture for the purpose of promotion to the post of Supervisor (Horticulture). Rightly or wrongly respondent was promoted on ad hoc basis and had discharged the duties of the post of Supervisor (Horticulture) w.e.f 24.6.1980. He has not been displaced. Thus, whatever the experience gained by him in the post of Supervisor (Horticulture) is required to be taken into consideration for the purpose of promotion to the post of Junior Engineer (Horticulture). 10 years of experience in the cadre of Supervisor (Horticulture) has not been mentioned in the Regulation 1989 to the extent that holder of the post of Supervisor (Horticulture) is required to have 10 years of experience on regular basis for the purpose of promotion to the post of Junior Engineer (Horticulture). There is no ambiguity in the regulation in respect of prescription of 10 years experience in the cadre of Supervisor (Horticulture). Therefore, the contention of the appellant that for the purpose of promotion to the post of Junior Engineer (Horticulture), one must be regular holder of the post of Supervisor (Horticulture) with 10 years of experience cannot be accepted for the reasons that there is no specific provision that regular holder of the post of Supervisor (Horticulture) with 10 years experience. Therefore, appellant has not made out a case.

8. Accordingly, appeal stands dismissed.

05.02.2018  
rajeev

**(P.B. Bajanthri)**  
**Judge**

**Whether speaking/reasoned**                      **Yes/No**

**Whether reportable**                              **Yes/No**