

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16591 of 2008

Date of decision: 19.11.2019

Hari Singh and others

... Petitioners

versus

Haryana Power Generation Corporation Ltd and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioners.

Mr. Gagandeep Singh Wasu, Advocate
for respondents No.1 and 2.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the grievance which is being raised by the petitioners is that the persons junior to them have been promoted as Assistant Engineer ignoring their claim and the prayer of the petitioners is to set aside their promotion with a further prayer that a direction be issued to the respondents to consider the petitioners for promotion to the post of Assistant Engineer. The writ petition came up for hearing on 18.09.2008, on which date the present writ petition was adjourned to be listed after the decision in CWP No.16330 of 2005 and other connected matters, wherein the same prayer as being made in the present writ petition, was made.

Learned counsel for the petitioner states that CWP No.16330 of

2005 and other connected cases were disposed of by this Court vide order dated 09.01.2014 by passing following order:-

“The Haryana Power Generation Corporation Limited was directed to work out a solution so that rights and entitlement of the petitioners and the respondents, inter se, is not harmed. In response thereto, on 17.5.2012, a proposal was placed on record. The said proposal reads thus:-

“Matter discussed today i.e. on 15.5.2012 in the chamber of Chairman of Haryana Power Utility wherein all M.Ds were also present. As per the discussion held only workable solution which is also legally sustainable is that the quota post of promotees be calculated as per availability of quota in terms of policy in vogue and they may be re-assigned seniority from the date their quota post is available. The above will settle grouse of direct recruits who were otherwise appointed in the year 1993 i.e. much after date of promotions/deemed dates given in 1991 to Rajinder Singh Redu & others. Even otherwise as per the settled law a direct recruit will get seniority from the date he is borne on the cadre while a promotee will get seniority from the date quota post is available.

Re-fixation of seniority may entail reversion of promotions carried out in excess of quota or non-availability of quota and consequently refixation of pay. The Standing Counsel may be apprised of the above stand of Utilities by way of short affidavit in order to comply with the directions contained in order dated 9.5.2012.”

In the proposal made, a solution has been offered. Counsel for the petitioners are satisfied with the proposal made and have no objection to the same. Counsel for respondents No.3 to 17 states that in earlier round of litigation, some favourable judgments were passed in favour of the respondents, protecting their rights and those may be kept in mind when acting upon the proposal, so made. Those judgments have been placed on record as Annexures P7 & P8, respectively.

In view of above facts, the above writ petitions are disposed of. The authorities are directed to act in terms of the decision taken on 15.5.2012 which was placed on record of this Court on 17.5.2012. In terms of that decision, let fresh exercise be done to settle right of the parties. When making that exercise, judgements, passed in favour of respondents No.3 to 17 and similarly situated other persons be kept in mind. When making above said exercise, the decision taken on 15.9.2005 (Annexure P1) shall not affect rights of the parties. The exercise shall be done within five months from the date of receipt of a certified copy of this order. Liberty shall remain with the parties not satisfied with the order to be passed to approach this Court.”

Learned counsel for the petitioner pleads ignorance about any

exercise, which has been undertaken by the respondents keeping in view order passed by this Court in CWP No.16330 of 2005, dated 09.1.2014. It cannot be presumed that orders passed by this Court are yet to be complied with even after expiry of more than five years. Faced with this, learned counsel for the petitioner prays that he be allowed to withdraw the present writ petition with liberty to approach the respondents for raising their grievance keeping in view the order passed by this Court in CWP No.16330 of 2005 dated 09.01.2014, if any grievance of the petitioner subsists even as of today.

Dismissed as withdrawn with liberty as prayed for.

(HARSIMRAN SINGH SETHI)
JUDGE

19.11.2019
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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |