

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

**CWP No. 18468 OF 2015
DATE OF DECISION : 02.05.2019**

Birinder Kumar Kardam and another

...Petitioners

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Anil Shukla, Advocate,
for the petitioner.

Mr. S. K. Vashisth, DAG, Haryana.

Mr. R. D. Bawa, Advocate,
for respondent No.2.

Mr. Jasbir Malik, Advocate,
for respondent No.3.

ARUN MONGA, J. (ORAL)

CM NO. 12117 OF 2016

For the reasons mentioned in the application, same is allowed and written statement on behalf of respondent No.3 is taken on record, subject to all just exceptions.

CM NO. 9822 OF 2018

For the reasons mentioned in the application, same is allowed and Annexure P-13 is taken on record, subject to all just exceptions.

MAIN CASE

1. The petitioners, *inter-alia*, seek issuance of writ in the nature of certiorari for partially quashing the impugned order dated 28.02.2014 (Annexure P-7) passed by respondent No.1, vide which they were not given promotion from the deemed date and have also impugned order dated 19.05.2015 (Annexure P-9) vide which respondent No.3 was promoted.

2. It is conceded position that as per letter dated 03.03.2011 (Annexure P-3), written by the Commissioner, Municipal Corporation, Faridabad to Financial Commissioner-cum-Principal Secretary, Government of Haryana, Urban Local Bodies Department, Chandigarh, one post of Executive Engineer fell vacant on 31.01.2011 on retirement of Shri D. R. Bhaskar and another on 28.02.2011 on retirement of Shri Subash Chander Pundhir.

3. In the circumstances, inter-se, seniority list of the Assistant Engineers working in the Municipal Corporation, was submitted before the government/Financial Commissioner-cum-Principal Secretary, wherein petitioners No.1 and 2 figured at serial no.13 and 12 respectively, while respondent No.3 was at serial No.10. A decision was solicited from the government for recommending promotion to the post of Executive Engineer from the said list.

4. Learned counsel for the petitioners submits that during the pendency of writ petition, both the petitioners were duly considered and have been granted promotion as XEN. He further submits that petitioner No.2 has been granted promotion with effect from the date the post fell vacant i.e 01.02.2011 against retirement of another XEN one Shri D. R. Mitta, as reflected from order dated 20.06.2018 (Annexure P-13). On the other hand, petitioner No.1 has been promoted vide order dated 28.02.2014 (Annexure P-7) with immediate effect. No reasons have been assigned as to why the similar benefit of promotion, from the date post fell vacant, has not been granted to petitioner No.1.

5. I have gone through rival pleadings/record and heard learned counsels for the respective parties. I am of the view that there is nothing on record to decipher as to what transpired in the mind of decision making authority to give different dates of promotion to the petitioners particularly when the decision to seek promotion was solicited vide common order dated 24.09.2013 (Annexure P-5) , wherein the seniority list of all the Assistant Engineers to be considered for promotion, was forwarded to the government.

5. In the premise, the writ petition is disposed of with a direction respondent No.1 to pass a speaking order as to why petitioner No.2 has been given promotion with effect from the date when the post fell vacant while on the other hand petitioner No.1 has been granted promotion with immediate effect.

6. Let needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

MAY 02, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No