

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 209

Civil Writ Petition No.4372 of 2018 (O & M)
Date of Decision: *March 28, 2019*

Niranjan Singh

..... PETITIONER(S)

VERSUS

Dakshin Haryana Bijli Vitran Nigam & another

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

. . .

PRESENT: - Mr. Lalit Rishi, Advocate, for the petitioner.

Mr. Kiran Pal Singh, Additional Advocate General,
Haryana.

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Ritu Bahri, J (Oral

Counsel for the petitioner has referred to judgment of this Court delivered in CWP No.16541 of 2015 titled 'P.D. Kaushik vs. State of Haryana & others' to contend that an Assistant Engineer was assigned the current duty charge w.e.f. 09.12.2006 and thereafter, regularly promoted, he would be entitled to pay scale to the post of Assistant Engineer for the period he did the current duty charge. The writ petition was allowed keeping in view the passed by this Court in Union Territory, Chandigarh Administration vs. Tarlochan Singh, 2014(4) RSJ 22. LPA No.1221 of 2017

against the said judgment has also been dismissed vide judgment dated 12.07.2017. Relevant part of the said judgment reads thus:-

“19. In view of the various judgments referred to above, we find that a person is not entitled to seek promotion from the day vacancies arises. It is for the employer to initiate the process of promotion and to fill up the posts, keeping in view its requirements. The employee has no right to claim promotion from a particular date or for a direction that the vacancy in the promotional post should be filled up. However, if the decision of the employer is to fill up the promotional post is actuated by the considerations other than administrative, such action or inaction can be subjected to the judicial review, but there cannot be any direction to grant promotion from the date the vacancy arises. However, in case, an Officer is given Current Duty Charge or promoted on adhoc basis, he shall be entitled to the pay of the promoted post as has been held in Arindam Chattopadhyay’s case (supra) and *State of Haryana Vs. P.K. Grover, (1983) 4 SCC 291 : AIR 1983 SC 1060.*”

While dismissing LPA, it has again been observed that if a person had discharged duty of a higher post on current duty charge, he would be entitled to monetary consequences and the attending benefits of holding the higher post would not be admissible to him.

In the present case, vide order dated 01.08.2008 (Annexure P-1), petitioner was given current duty charge and was re-allocated work of AGM/Operation Sub Division, DHBVN Barwala and he continued to

discharge his duties on the higher post till he was regularly promoted on 31.03.2010 (Annexure P-2). For the post, he was regularly promoted to the rank of Assistant Engineer in the pay scale of ₹ 9300-34800 + Grade Pay ₹ 5400/- on 31.03.2010 and for the intervening period, from 2008 till 2010, keeping in view the ratio of the judgment passed by this Court, titled as P.D. Kaushik vs. State of Haryana & others, Annexure P-3, which has been upheld by the LPA Bench, petitioner has the right to be paid salary on the basic pay of the post of Assistant Engineer.

Writ petition is allowed.

March 28, 2019
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(Ritu Bahri)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No