

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

**CWP No.6312 of 2018
Date of decision:23.07.2019**

N.K.Handa and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sajjan Singh, Advocate
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. B.R.Mahajan, Senior Advocate with
Mr. Padamkant Dwivedi, Advocate
for respondent no.3.

AMIT RAWAL J.

Petitioners three in number working as Executive Engineer (XEN) in PWD (B&R) Department, have sought indulgence of this Court for issuance of a writ in the nature of quo warranto to quash the letter dated 30.10.2017 (Annexure P-2) and impugned order dated 26/28.10.2018 (Annexure P-6) on the premise that their right of consideration on deputation and transfer has been taken away.

Vide letter dated 30.10.2017, Annexure P-2, Additional Chief Secretary to Government Haryana, Power Department communicated to the Managing Director of Haryana Vidyut Prasaran Nigam Limited, Panchkula, Uttar Haryana Bijli Vitran Nigam Limited, Panchkula, Haryana Power General Corporation Limited, Panchkula and Dakshin Haryana Bijli Vitran

Nigam Limited Hisar for filling up the vacant posts of Executive Engineer in the office of Chief Electrical Inspector to Govt. Haryana, on deputation basis, by fixing the academic qualification and experience etc.

As a necessary corollary, the concerned department vide letter dated 30.11.2017 (Annexure P-3) communicated to all the Assistant Executive Engineers (AEEs) and Executive Engineers (XENs) to send their willingness. Respondent no.4, vide order dated 26/28.02.2018, has been appointed from Dakshin Haryana Bijli Vitran Nigam Limited on deputation basis.

Mr. Sajjan Singh, learned counsel appearing on behalf of the petitioners submitted that action is totally atrocious and in violation of Rule 9 of Haryana Electrical Inspectorate (Group-A) Service Rules 1997, for, the aforementioned post can be filled up by way of transfer or deputation of an officer already in service of any State Government or Government of India. Pay scale of post in question in Nigams/Corporations is almost double to that of the one in Inspectorate. To the knowledge of petitioner, even respondent no.4 did not apply in response to the letter. In such circumstances, petitioners have been deprived the right of consideration.

Per contra, learned State Counsel submitted that in pursuance to order dated 20.02.2019, better affidavit has been filed by the State wherein it has been stated that name of respondent no.4 was recommended by the Chairman-cum-Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited, Hisar while approving the orders of repatriation of Manoj Kumar who was initially working on deputation basis in the office of Chief

Electrical Inspectorate, Haryana. Bio data of respondent no.4 was not sent by Dakshin Haryana Bijli Vitran Nigam Limited upto 29.10.2017 as alleged. The names of eligible Executive Engineers were called from all Power Utilities of the Haryana Government vide memo dated 30.10.2017, Annexure R-1/1 and one name of eligible Executive Engineer i.e. Suraj Bhan from Haryana Power Generation Corporation Limited along with bio data of Manju Punia was sent by Dakshin Haryana Bijli Vitran Nigam Limited on 17.11.2017. Names of both the persons were recommended but finally name of Manju Punia was approved by the competent authority i.e. Hon'ble Chief Minister, Haryana and thus, urged this Court for dismissal of writ petition.

I have heard learned counsel for the parties, appraised the paper book and of view that there is no force and merit in the submissions of Mr. Sajjan Singh

It would be apt to reproduce Rule 9 of Haryana Electrical Inspectorate (Group-A) Service Rules 1997 which reads thus:-

Rule 9(1) Recruitment to the Service shall be made-

..

(b) in the case of Executive Engineer,

(i) by promotion from amongst Assistant Engineer or

(ii) by direct recruitment; or

(iii) by transfer or deputation of an officer already in the service of any State Government or Government of India.”

There are large number of engineers in Power Utilities keeping

in view the nature of job and experience etc., can be spared by utilities for sending the State Government on deputation. In fact, job profile of Executive Engineers in the department of Chief Electrical Inspector involve following role:-

- i) *Administration and implementation of provisions of the Electricity Act, 2003.*
- ii) *Administration and implementation of Provisions of Indian Electricity Rules, 1956 now Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 for ensuring safety in the electrical installation and maintenance thereof.*
- iii) *Inspection of electrical installation (new and periodical) of licenses/consumers under the above Act, Rules & Regulations and issuance of approval for energization.*
- iv) *Investigation of electrical accidents and recommendation of safety measures against such accidents.*
2. *Inspection under the Punjab Cinemas (Regulations) Act, 1952 as applicable in the State of Haryana.*
3. *Matters connected with Central Electricity Authority and P.T.C.C.*
4. *To discharge duties as Secretary of the State Licensing Board meant for:-*
 - i) *Grant and issue of new licenses to the Wiring Contractors/up-gradation of such licenses for higher voltages*

and renewal thereof.

ii) Grant and issue of Competency Certificate to Electrical Supervisors/Wireman Permits/Cinema Operator Permits.

iii) Electricity Duty accounts/exemption from Electricity Duty.

5) Launching of prosecution in respect of offences under the Electricity Act/Regulations.

6. To discharge other duties and responsibilities as may be assigned under the relevant Act/Rules/Regulations by the State Government.

7. Administration and implementation of provisions of Lifts & Escalators Act, 2008 & Rules.”

Thus, Engineers working in the Utilities have better experience than the Engineers working in PWD (B&R) (Electrical) Department as they do not have any experience in electrical, transmission lines or maintenance of transformers. Stand of the State in such circumstance in appointing respondent no.4 cannot be said to be arbitrary, illegal or repugnant and thus, apprehension of petitioner is wholly devoid of merit.

No ground is made out for interference.

Dismissed.

(AMIT RAWAL)
JUDGE

July 23, 2019

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No