

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

CWP-14649-1996

Date of decision: 05.03.2020

Bhoop Singh Bishnoi

...Petitioner(s)

V/s.

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

RITU BAHRI, J.

By this petition, the petitioner is seeking direction to the respondents to give him pay scale of AED/SDE i.e. 2200-4000 with 18% interest from the date he took charge i.e. 16.03.1994 till 07.02.1996.

The petitioner was an employee of PWD (B&R) and was working since 26.10.1970. After obtaining diploma in Civil Engineering in 1982, he was appointed as Junior Engineer. He was given current duty charge on the post of AED (Assistant Engineer Design)/SDE (Sub Divisional Engineer) in the head office w.e.f. 16.03.1994 vide order dated 16.03.1994 (Annexure P-1). He discharged his duties from 16.03.1994 to 07.02.1996. Thereafter he was selected as HCS (Executive) and relinquished charge of SDE, Incharge of PWD (B&R) as he was to report on his new duty. The petitioner relinquished his charge vide letter dated 07.02.1996 (Annexure P-2) and his name was registered on 07.02.1996 vide order dated 07.02.1996 (Annexure P-3).

The petitioner is seeking salary of the post of AED/SDE for the period he discharged current duty charge i.e. one year and 11 months. The

petitioner made a representation on 26.02.1996 (Annexure P-4) seeking benefit of salary of the post of SDE. In para 6 of the writ petition, he has given reference to some employees who had been given this benefit of discharging duties on higher post namely Sh. J.K.Jain, Sh. K.L. Goel, Sh. Inderjit Sikka, Darshan Singh, Sh. S.C. Sharma and Sh. P.K. Aggarwal, Junior Engineers.

On notice of this petition, respondents have filed written statement and in response to para 6 of the writ petition, it is clarified that J.K. Jain was given current duty charge on the post of SDE on the basis of merit. The petitioner was given current duty charge on the basis of his own request irrespective of his seniority as Junior Engineer taking into consideration his handicappedness. It is further explained that petitioner was given current duty charge vide order dated 16.03.1994 (Annexure P-1) in the exigency of the work as a stop gap arrangement and it was given to him on his request claiming benefit of physically handicappedness. The petitioner was appointed against the post meant for physically handicapped persons in the direct quota. The Government took a decision to give current duty charge of the post of Assistant Engineer to the petitioner although he was very much junior amongst the category of physically handicapped Junior Engineers and his senior handicapped Junior Engineer namely Sh. M.S. Dahiya filed CWP-13981-1994 against the order dated 16.03.1994 (Annexure P-1) which was allowed by the Division Bench of this Court on 17.11.1995 and the order dated 16.03.1994 (Annexure P-1) was quashed. Thereafter the current duty charge was withdrawn from the petitioner vide order dated 26.04.1996 (Annexure R-1).

After going through the writ petition, even if current duty charge was withdrawn vide order dated 26.04.1996 (Annexure R-1), the petitioner had performed the duty on the post of AED/SDE and only reason for withdrawing current duty charge was that there was one senior Junior Engineer to the petitioner. The fact that petitioner had performed current duty charge for the period referred above on the higher post, the Department cannot deprive him salary of higher post.

Hence writ petition is allowed. Keeping in view current duty charge, the respondents are directed to give salary for the post of SDE w.e.f. 16.03.1994 till 07.02.1996 alongwith 6% interest and pass appropriate order within a period of three months from the date of receipt of certified copy of this order.

05.03.2020
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No