

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

CWP No.20777 of 2011 (O&M)

Date of Decision: 4.2.2020

Ram Kishan

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Manoj Tanwar, Advocate, for the petitioner.

Mr. D.S. Nalwa, Advocate, for the respondents No.1 to 4.

NIRMALJIT KAUR, J. (ORAL)

Prayer in the present petition is to consider the case of the petitioner for promotion to the post of Junior Engineer, from the date his junior Sant Ram-respondent No.5, was promoted i.e. 26.10.2010.

While praying for the said relief, learned counsel for the petitioner submitted that the petitioner was senior to the private respondent. This fact was evident from the tentative seniority list placed on record as Annexure P-5, which shows the petitioner was at Sr. No.100 and respondent No.5 was at Sr. No.208. It is further contended that there is a joint seniority list of ALM and SSA and from both the categories the employees are being further promoted to the post of JE on the basis of the said joint seniority-cum-merit. The petitioner had also joined the service on daily wages and was regularized with the respondent-Nigam. Therefore, the petitioner is senior to respondent No.5 in all respects. Hence, he is entitled to be promoted from the same date.

Learned counsel for the parties were heard at length.

From the reply as well as with the assistance of learned counsel for respondents No.1 to 4 it is evident that the said seniority list placed on record by the petitioner as Annexure P-5, is a tentative list and that too of all the employees appointed on daily wages. There is no doubt that the petitioner was appointed as a daily wager prior to respondent No.5. However, their respective dates of regular appointment are different. Respondent No.5 was appointed on regular basis on 24.6.1988, whereas, the petitioner was given regular appointment on 20.5.1993. Similarly, respondent No.5 was designated on regular appointment as Shift Attendant, whereas, the petitioner was designated on regular appointed as Regular Work Mate. Thus, both the cadres were different. Further, respondent No.5 promoted as ASSA on 7.4.1995 and the petitioner in his own cadre was promoted as ALM on 20.6.1997. Respondent No.5 further promoted as Senior Shift Attendant on 11.1.1999 and the petitioner meanwhile retired as ALM on 30.4.2011, whereas, respondent No.5 was further promoted as Junior Engineer on 7.4.2011 after the retirement of the petitioner.

In order to understand the same more clearly, the said table is provided as under:-

Ram Kishan (petitioner)	Sant Ram (respondent No.5)
Date of joining as Daily wages -2.12.1980	Date of joining as Daily wages- 1.11.1984
Date of regular appointment- 20.5.1993	Date of regular appointment- 24.6.1988
Designation on regular appointment as Regular Work Mate	Designation on regular appointment as Shift Attendant
Promotion as ALM – 20.6.1997	Promotion as ASSA- 7.4.1995
Retired as ALM on 30.4.2011	Promoted as SSA – 11.1.1999
	Promoted as Junior Engineer – 26.10.2010

It is further stated on oath in the reply that the seniority of Assistant Lineman and Senior Shift Attendant is maintained separately by the respondent-Nigam. Both the posts are different cadres. The work and the

qualification for the posts of Assistant Lineman and Senior Shift Attendant are totally different. The Assistant Lineman is required to work on lines, poles and cables, whereas, the Senior Shift Attendant is required to control the Sub Station and power/voltage. Even their duties are different and there is a separate seniority list qua the two cadres.

No replication to the amended written statement has been filed. Therefore, this Court has no reason to doubt the reply filed by respondents No.1 to 4. Thus, the tentative seniority list maintained qua the daily wagers does not help in any manner.

From the above, it is clear that:-

(a) Seniority list Annexure P-5 is a tentative seniority list of Daily Wagers.

(b) Thereafter, respondent No.5 was regularized before the petitioner.

(c) Respondent No.5 was promoted on various posts in his cadre before the petitioner.

Hence, it is respondent No.5, who was senior and tentative seniority list of Daily Wagers does not determine seniority, unless you are regularized from the date you were appointed on daily wages.

Moreover, it is also evident from the table above that each time respondent No.5 was promoted on different posts prior to the petitioner, the petitioner never challenged the promotion of respondent No.5 and accepted the said promotions of respondent No.5 at that point of time while in service. Obviously, it was because he knew that respondent No.5 was senior to him. The present writ petition is, therefore, an afterthought and too late in the day having filed the same after retirement.

In view of the above, the present writ petition is dismissed being devoid of merit.

(NIRMALJIT KAUR)
JUDGE

4.2.2020
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No