

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

132

CWP-3684-2022

DATE OF DECISION: 24.02.2022

NARESH KUMAR

... Petitioner(s)

Versus

STATE OF HARYANA AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 18.01.2022 (Annexure P-4) whereby the case of the petitioner for promotion to the post of Executive Engineer (Horticulture) has been declined.

Learned counsel for the petitioner contends that the petitioner was promoted as Sub Divisional Engineer (Horticulture) on current duty charge on 07.04.2010. He was regularized on the post of Sub Divisional Engineer (Horticulture) on 31.07.2013. He, thus, submits that the petitioner is working for over 8 years on the post of Sub Divisional Engineer and is fully eligible for promotion to the post of Executive Engineer. He has the requisite 8 years experience. He also contends that the rationale of denying promotion to the petitioner on the ground of restructuring of the cadre, would be defeated if it is taken into consideration that the respondents are promoting officials of other ranks and even allocating the work of Executive Engineer (Horticulture) to an Executive Engineer (Electric) as evident from Annexures P-7 and P-9. He has also referred to the proceedings of the Meeting of the Personnel Committee of the respondents authority whereby promotions have been made to various ranks on 31.05.2021 (Annexure P-10).

The petitioner had approached this Court by preferring CWP bearing No.15070 of 2021 and the coordinate Bench had directed the respondents to consider his representation for promotion to the post of Executive Engineer. The representation of the petitioner has been dismissed by the impugned order dated 18.01.2022 (Annexure P-4).

The operative part of the impugned order reads as under:-

“At present only one regular Executive Engineer (Horticulture) is working against the sanctioned post of 05 and petitioner is laying claim for promotion against the vacant post of Executive Engineer (Horticulture). In this context it is relevant to take into consideration the changing scenario as most of the sectors of HSVP falling in various Urban Estate across the State have been transferred to the concerned Municipal Committee/Municipal Council/Municipal Corporation for the purpose of maintenance of essential services. In addition, with the formation of Gurugram Metropolitan Development Authority (GMDA), Faridabad Metropolitan Development Authority (FMDA) & Panchkula Metropolitan Development Authority (PMDA), the engineering works have been transferred to these Authorities which were earlier being carried out by HSVP. Thus a need has been felt to rationalize the engineering staff of HSVP. The Chief Engineer of HSVP has even recommended to abolish all the post of XEN (Hort.). Rationalization of Engineering Wing is under consideration.

The promotion case of SDE (Hort.) to the post of Executive Engineer (Horticulture) was also placed before the Personnel Committee in its 80th meeting held on 14.07.2021. The Personnel Committee after detailed deliberation decided that “almost all of the developed sectors alongwith Green Belts, open spaces & parks stand transferred to the Urban Local Bodies/GMDA/FMDA as per their jurisdiction. Therefore, it was decided not to fill any more vacant posts of Executive Engineer

(Hort.) for now. Faced with the situation that in the changed scenario there is no more requirement of the post of Executive Engineer (Horticulture) in HSVP. In view of these circumstances, I am of the considered view that Sh. Naresh Kumar, SDE (Hort.) cannot be promoted to the post of Executive Engineer (Horticulture).”

On the query of this Court as to whether the petitioner is an engineering graduate or whether any person junior to the petitioner has been promoted to the post of Executive Engineer (Horticulture), learned counsel contends that the petitioner has done Bachelor of Science in Agriculture and no such person has been promoted but the petitioner deserves to be promoted on account of vacant posts. The petitioner has only a right of consideration for promotion. His case has been considered by the respondents and the promotion has been denied on the ground that the various sectors of HSVP across the State have been transferred to the Municipal Committee/Council/Corporation, rationalization of the engineering staff is underway and there is no requirement of the post of Executive Engineer (Horticulture). The action of respondents in denying promotion to the petitioner is bona fide.

Therefore, I do not find any illegality in the impugned order dated 18.01.2022 (Annexure P-4) which would warrant interference while exercising writ jurisdiction. Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

24.02.2022

SwarnjitS

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