

Tej Singh and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Ritu Punj, Advocate for the petitioners.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, inter alia, is for issuance of a writ in the nature of Mandamus directing the respondents to place the petitioners as per their merit in the Seniority list prepared by respondents by taking into consideration the service rendered by them on adhoc basis before regularization of services and to consider their case for promotion to the post of Sub Divisional Officer against the first available vacancy.

2. Writ petition *qua* petitioner No.3 already stands dismissed vide order dated 05.11.1998 by this Court and this order shall apply only for petitioners No.1 and 2.

3. Succinct factual background first. Petitioners No.1 and 2 were initially appointed on 19.07.83 and 30.11.1983 respectively on the post of Junior Engineers in the respondent-Department on ad-hoc basis. The next promotion from the post of Junior Engineer is to the post of Sub-Divisional Officer. It was alleged that the State is arbitrarily promoting the Junior Engineers to the post of SDOs and so one Munshi Ram Jakhar preferred CWP-463-1995 for finalizing the seniority list and for implementing the reservation policy dated 18.09.1997. Said writ petition was

disposed of vide order dated 28.07.1995 by the Division Bench of this Court. Thereafter, State framed Seniority list (Annexure P-1). Names of the petitioners are at Sr. No.121 and 126 in the said list. However as many as 37 Junior Engineers were again promoted arbitrarily on 30.03.1996 to the posts of SDOs, but the case of Munshi Ram Jakhar was not considered even though he was placed above them. He preferred COCP-480-1996, which was disposed of vide order dated 19.07.1996. Thereafter, case of the said Munshi Ram Jakhar was considered and rejected vide order dated 04.11.1996 (Annexure P-2) stating that he was not fulfilling the condition of ten years experience in terms of Rule 10(2) of the Draft Service Rules. His adhoc service period was not counted towards the qualifying service to count his eligibility for promotion to the higher post. He challenged the same by way of CWP-1920-1997, which was allowed vide order dated 19.08.1997. Petitioners are senior to Sh. Munshi Ram who is at Sr. No.208, and so they moved representations (Annexure P-4 to P-6) for promoting them also, but to no avail.

4. I have heard rival contentions of the parties and perused the record.

5. Facts are not since disputed from which it emerges that one Sh. Munshi Ram Jakhar who was indeed junior to the petitioners, was promoted to the post of Sub-Divisional Officer while the case of the petitioners for promotion was not considered. As regards non-consideration of the case of the petitioners to the promotional post, I am of the view that since the same was to be carried out strictly on the basis of seniority-cum-merit and the petitioners being at Sr. No.121 and 126 respectively in the aforementioned seniority-list could not stake their claim by jumping the queue since promotion in question in the quota of diploma-holders was made only upto Sr. No.74 of the joint seniority list of the Junior Engineers (Community Development and National Rural Employment Program). Thus, to that extent, the claim of the petitioners was rightly not considered as there were as many as 46 Junior Engineers above them.

6. Adverting now to the candid admission of the respondents that the aforesaid junior Sh. Munshi Ram Jakhar was accorded promotion, I am of the view that the same was done in compliance of the orders passed by this Court in CWP-1920-1997 preferred by said Munshi Ram Jakhar wherein directions were issued that irrespective of his seniority position, he had to be accorded the benefit of promotion, owing to which he stole march over as many as 100 Junior Engineers who were senior to him given the fact that he was at Sr. No.177 and Junior Engineers only upto 74 were accorded the benefits earlier. It thus emerges that promotion to Munshi Ram Jakhar, junior to the petitioners in the seniority-list, was accorded as a consequence of the aforementioned events. Said order in that writ petition cannot be treated as in rem and, therefore, benefit of the same cannot be granted to all the 103 Junior Engineers including the petitioners herein. Being a relief granted in *personam*, Department had no choice but to comply with the orders and same cannot be therefore, treated as being in violation of the seniority-list.

7. As an upshot of the above discussion, I am of the view that no grounds for interference are made out.

8. Dismissed.

(ARUN MONGA)
JUDGE

August 24, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No