

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

213

CWP No.25244 of 2015 (O&M)
DATE OF DECISION : 10th MAY, 2022

Shri Surinder Paul

.... Petitioner

Versus

**Bhakra Beas Management Board, Sector 19-B, Chandigarh through
its Chairman & another**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Raman Sharma, Advocate for the petitioner.

Mr. Karan Nehra, Advocate and
Mr. Abhay Josan, Advocate for the respondents.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226/227 of the Constitution of India, praying for issuance of writ in the nature of certiorari, mandamus and any other appropriate writ, order or direction for quashing the impugned order dated 09.10.2015 (Annexure P-12) passed by respondent-Board pursuant to the directions issued by this Court in CWP No.10246 of 2015 dated 20.05.2015, whereby the claim of the petitioner, as raised through representation dated 17.12.2014 (Annexure P-8), has been rejected; along with certain other prayers.

The case of the petitioner is that the petitioner joined as Draftsman with the Irrigation Department, Punjab, Chandigarh on 04.02.1982. The petitioner was sent on deputation to Bhakra Beas Management Board (in short, BBMB) on 23.05.1984 against the post of

State quota. During the stay of the petitioner with the BBMB he was granted benefit of ACP scales under the Time Bound Promotional Scales Scheme dated 24.05.1990. Under the said scheme the petitioner got benefit for the Time Bound Promotional Scales Scheme on completion of 9 years service. Thereafter, vide order dated 18.10.1995 the petitioner was promoted by BBMB as SDO/Assistant Engineer on *ad-hoc* basis; while working in the BBMB. However, with introduction of the new scheme dated 15.09.2003, which was duly adopted by the BBMB on 27.01.2004, the petitioner was to be given option for the new scheme, if he was promoted. The petitioner had duly given the option for the new scheme. However, the benefit of the said scheme has been denied to him on the ground that he is not the departmental quota promotee and that he has not been promoted on regular basis. His substantive appointment remains to be of Draftsman.

While arguing the case, the counsel for the petitioner has submitted that the petitioner was promoted on *ad-hoc* basis on 18.10.1995 and he continued there till he left the BBMB on his superannuation from his parent department. Hence, it is submitted that mere use of the term '*ad-hoc*', though promoted for such a long time, is irrelevant because by efflux of time itself the petitioner has to be taken as a regular employee. Accordingly, it is submitted that the respondents have committed illegality by denying the benefit, to which the petitioner was duly entitled. The counsel has referred to the case of another employee namely Mrs. Savitri Phogat and submitted that she was also employed on *ad-hoc* basis in the BBMB. Despite that, she was granted the benefit of the new scheme. Therefore, the case of the petitioner also

deserves to be considered by the respondent-BBMB at par with the above said employee.

On the other hand, the counsel for the respondents has submitted that the case of the petitioner is not covered under the policy as clarified on 15.09.2003 and adopted on 27.01.2004 because this policy prescribes that the induction level of the employee with the BBMB is to be taken as reference post for the grant of ACP Scale. The petitioner was inducted only on the post of Draftsman. Subsequently, though he was promoted to the post of SDO, however, the said promotion was purely *ad-hoc*, meant for a limited period without granting any cadre benefit or any other benefit upon the petitioner. The petitioner was not a direct recruit on post of SDO or a promotee from cadre of BBMB quota. The petitioner was never regularized in that cadre. The counsel has relied upon the judgment of the Supreme Court rendered in the case of ***Punjab State Electricity Board and others Versus Jagjiwan Ram & others, 2009(5) SLR 499; Bhakra Beas Management Board Versus Krishan Kumar Vij & Another, 2010 AIR (SC) 3342*** and judgment of this court in the cases of ***Hussan Chand Versus Bhakra Beas Management Board, 1996(1) SCT 759 & R. K. Malik & others Versus Bhakra Beas Management Board & others, passed on 18.09.2015 in CWP-20072-2014***. Accordingly, it is submitted that since he was neither regularized on the post of SDO nor the post of SDO was the induction post for the petitioner, therefore, he was not granted benefit of the new scheme and he was given that benefit under the old scheme.

Having heard the counsel for the parties, this court does not find any substance in the argument of the counsel for the petitioner. It is

not even in dispute that the petitioner was inducted with the respondent-Board only on the post of Draftsman. Therefore, having reference to the post of induction, the petitioner was entitled only to the benefit under the earlier scheme. Although, the petitioner claims that he was promoted to the post of SDO, however, record shows that the said promotion was only an *ad-hoc* promotion, meant for getting the work of the post done; without conferring any benefit of the cadre of the SDO, as such. Since the petitioner was not regularized in the cadre, therefore, the case of the petitioner is squarely covered by the judgment of the Supreme Court rendered in ***Jaggiwan Ram & ors.; Krishan Kumar Vij & Another Hussan Chand and R. K. Malik & others (supra)***. The argument of the counsel for the petitioner that the petitioner continued on *ad-hoc* promotion for a long time, therefore, by efflux of time he shall be deemed to have been regularized, is not legally sustainable. Needless to say that the petitioner was employee of the State of Punjab and he was holding post of Draftsman there. Therefore, he can get the benefits only as Draftsman. He was never promoted on the post of SDO in parent department. The respondent-Board has promoted the petitioner only on *ad-hoc* basis. Therefore, the promotion of the petitioner to the post of SDO cannot be taken as induction level; either with reference to the post upon which the petitioner was first inducted into the Board or with reference to the post of SDO. Hence, this court does not find any fault with the decision of the respondents. Reliance of the counsel for the respondents on ***Jaggiwan Ram & ors.; Krishan Kumar Vij & Another Hussan Chand and R. K. Malik & others (supra)*** is found to be well placed.

Although the counsel for the petitioner has claimed parity with another employee Mrs. Savitri Phogat, by submitting that she was also working only on *ad-hoc* basis, however, a perusal of the record shows that her case was totally distinguishable. The post, on which she was working, was her induction level post with BBMB. She was inducted in the BBMB on the post of Hindi Instructor-cum-Translator. She was granted the benefit of the induction level post only. Therefore, there is no parity between the case of the petitioner and the case of the aforesaid Mrs. Savitri Phogat. The mere fact that both were working in *ad-hoc* capacity, would not make any difference because the reference post, under the policy, is the post of induction level or post of direct recruitment or post of substantive promotion against BBMB quota post. It is further clear that even if the above said employee Mrs. Savitri Phogat is wrongly granted the benefit, that does not help the case of the petitioner because the petitioner cannot claim negative equality; in absence of any provision favouring the petitioner.

In view of the above, finding no merit in the present petition, the same is dismissed.

10th MAY, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>