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

CWP-6932-2017 (O&M)

Kulwant Singh and others

... Petitioners

Versus

Punjab State Power Corporation Limited and others

.. Respondents

(2)

CWP-4512-2017

Gurjeet Singh and others

... Petitioners

Versus

Punjab State Power Corporation Limited and others

.. Respondents

(3)

CWP-28786-2017

Sharanjit

... Petitioner

Versus

Punjab State Power Corporation Limited and others

.. Respondents

(4)

CWP-5836-2019

Guldeep Kumar and others

... Petitioners

Versus

Punjab State Power Corporation Limited and others

.. Respondents

(5)

CWP-2232 of 2016 (O&M)

Sikander Singh and others

... Petitioners

Versus

Punjab State Power Corporation Limited and others

.. Respondents

Date of decision : 27.09.2022

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. G. S. Bal, Senior Advocate with
Mr. Jaideep Singh Randhawa, Advocate for the petitioner(s) in
CWP-6932-2017.

Mr. D.S. Gurna, Advocate for the petitioner (s)
in CWP-2232-2016 and 28786-2017.

Mr. Rahul Vijay Singh Chugh, Advocate for the petitioner in
CWP-4512-2017.

Mr. Raj Kumar Karanwal, Advocate for
Mr. Pankaj Shukla, Advocate for petitioner No.32
in CWP No.2232 of 2016.

Mr. M.S. Yadav, Advocate for the petitioner(s)
in CWP No.5836 of 2019.

Ms. Anu Chatrath, Senior Advocate with
Mr. Kshitij Sharma, Advocate
Mr. P.P.S. Thethi, Advocate and
Ms. Divya Sharma, Advocate for the respondent/PSPCL.

Mr. T.S. Sidhu, Advocate for respondents No.2 to 5
in CWP No.2232 of 2016.

Mr. Vijay Pal, Advocate and
Mr. Ishaan Bhardwaj, Advocate respondents No.46 to 63
in CWP-2232 of 2016.

Mr. D.S. Patwalia, Senior Advocate with
Mr. A.S. Chadha, Advocate for respondents No.64 to 67.

Mr. Vikas Kuthiala, Advocate for respondent No.68.

Anupinder Singh Grewal, J. (Oral)

This order shall dispose of CWP Nos.2232 of 2016, 4512, 28786,
& 6932 of 2017 and 5836 of 2019 as the issue involved herein is identical.

The petitioners have impugned the advertisement (CRA
No.286/15) dated 10.06.2015 (Annexure P-8) whereby the respondents had
invited applications for the post of Junior Engineer (Sub-Station) at serial No.4

through direct recruitment.

Learned counsel for the petitioners submits that the petitioners had been selected and appointed as Sub-Station Attendants in pursuance to the advertisement issued by the respondent/PSPCL in the year 2010/2011. They were fully eligible to be appointed as Junior Engineer (Sub-Station) as they had qualified diploma in Electrical and Electronics Engineering which is the essential requirement for eligibility as Junior Engineer(Sub-Station). The respondents had issued several instructions including 07.08.1996 and 21.07.2014 (Annexures P-2 and P-6 respectively) whereby to prevent stagnation, Sub-station Attendants, who were diploma-holders were being considered for appointment as Junior Engineer (Sub-Station) in 33% quota meant for direct recruits. This practice had been undertaken by the respondents for over 18 years and the action of the respondents in recruiting the Junior Engineers (Sub-Station) through direct recruitment by the impugned advertisement (Annexure P-8) has jeopardized the chances of the petitioners' promotion as per the previous practice. He also submits that the instructions issued on 07.08.1996 (Annexure P-2) were duly approved by the Board of Directors and therefore, they would have the force in law. He further submits that other candidates, who had been selected in pursuance to the impugned advertisement have already been appointed and this Court on 13.02.2019 had passed an interim order staying further appointments to the extent of the number of the petitioners. The petitioners are 69 in number and 192 posts of Junior Engineers (Sub-Station) are available against which the petitioners could be adjusted.

Learned counsel for the respondent submit that in terms of the

Punjab State Electricity Technical Services Grade-III Regulations, 1996 (for short, 'the Regulations, 1996'), published on 16.06.1997, the mode of appointment to the post of Junior Engineer (Sub-Station) has been stipulated. 67% of the posts have to be filled up by way of promotion from Sub-Station Attendants while 33% posts have to be filled by direct recruitment. The petitioners are entitled to the promotion in terms of 67% quota as prescribed in the Regulations, 1996. The statutory rules cannot be overridden by executive instructions. They have relied upon the judgments of the Supreme Court in the cases of **Bank of Baroda and another versus G. Palani and others, (2022) 5 SCC 612** and **K. Kuppusamy and another versus State of Tamil Nadu and others, (1998) 8 SCC 469**, in support of their contentions. They also submits that several of the petitioners have participated in the subsequent selections for direct recruitment as Junior Engineer after their appointment as Sub-Station Attendants, including the impugned advertisement but they could not succeed.

Heard.

The petitioners, who are the diploma-holders, are working as Sub-Station Attendants. The procedure to fill up the post of Junior Engineer (Sub Station) is prescribed in the Punjab State Electricity Technical Services Grade-III Regulations, 1996. The relevant extract of these Regulations is reproduced hereunder:-

“2. Junior Engineer/Sub Station (Sub Station Operator)

Direct Recruitment through (33% of vacant posts)	1. 3/4 year diploma Electrical Engineering passed with 55% or more marks OR 2. Degree in Electrical Engineering passed or 3. 3/4 year diploma in Electrical Engg.
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Through promotion from Sub Station Attendants (67% of vacant posts)	Matriculation or equivalent examination recognized by university/board passed or from equivalent/higher qualified SSAs on seniority-cum-merit basis; 1. 9 years experience for 10 th pass out of which atleast 4 years as SSA 2. 4 years experience for 10 th pass and for ITI course Electrician Trade (pass) 3. 3 years experience for Electrical Engineering Diploma Holder
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It is manifest from a bare reading of these Regulations that 67% posts have to be filled through promotion from Sub-Station Attendants while 33% posts have to be filled by direct recruitment. The impugned advertisement (Annexure P-8) had been issued for filling up the posts of Junior Engineers through direct recruitment. The impugned advertisement is in consonance with 33% quota for direct recruitment as stipulated in the Regulations. Insofar as the argument of learned counsel for the petitioners that the respondents had issued the executive instructions and had followed the practice for over 18 years of promoting diploma-holders Sub-Station Attendants as Junior Engineers through direct recruitment is concerned, it is well settled that the statutory rules would have the force of law and would be binding. Any executive instructions would have to give way to the statutory rules/regulations. The respondents have been following this practice of promoting the diploma-holders Sub-Station Attendants as Junior Engineers for a number of years but they have now chosen by the impugned advertisement to follow the Regulations, 1996. Therefore, their action of filling up the 33% posts of Junior Engineers through direct recruitment cannot be faulted.

The Supreme Court in the case of **Union of India and others versus Ashok Kumar Aggarwal, 2013 (16) SCC 147** had held that the

statutory rules cannot be overridden by the executive orders and practice. The instructions can be issued only to supplement the statutory rules but not to supplant it.

It would be apt to notice that several of the petitioners had also participated in the selection process in the subsequent selections for direct recruitment as Junior Engineer after their appointment as Sub-Station Attendants, including the impugned advertisement (Annexure P-8) but they could not succeed. In pursuance to the impugned advertisement (Annexure P-8), the list of 200 candidates had been prepared out of which 131 appointments had been made. Appointments to 69 posts could not be made due to an interim order passed by this Court to protect the interest of the 69 petitioners in these petitions.

In view of the above, I do not find any infirmity in the action of the respondents advertising the posts of Junior Engineers (Sub-Station) through direct recruitment.

Consequently, the petitions stand dismissed.

Pending application(s), if any, shall also stand disposed of accordingly,

(ANUPINDER SINGH GREWAL)
JUDGE

September 27, 2022
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No