

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

211

LPA-2089-2017

Decided on : 20.09.2022

Parveen Kumar Mehra

....Appellant

Versus

HARTRON & another

.... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE JAGMOHAN BANSAL**

Present: Mr.Umang Narang, for the appellant.

Mr.Pankaj Gupta, Advocate, for respondent No.1.

G.S. Sandhawalia, J. (Oral)

The present Letters Patent Appeal is directed against the order passed on 19.08.2016 by the learned Single Judge whereby CWP-11961-2013 was disposed of as having been rendered infructuous along with another case.

The learned Single Judge noticed that an interim order dated 28.05.2013 had been passed in favour of the appellant whereby status quo regarding the service had been granted and thus the alternate claim of reversion had been stayed from the post of Deputy Engineer. It was noticed that since thereafter on account of posts lying vacant, the appellant had been adjusted against the said post.

Counsel for the appellant points out that there was an additional claim for benefit of promotion as Assistant Engineer and also Deputy Engineer from the person junior to him was to be given with all consequential benefits which was not addressed by the learned Single Judge. It is in such circumstances the present appeal has been filed. It is pointed out that in similar circumstances in CWP-24578-2014 titled *Jagmal Singh & others Vs. Haryana State Electronics Development*

Corporation Ltd. & others, decided later on 19.04.2018 the said relief had

been granted to another similarly situated person who was junior to the petitioner and no appeal has been filed against the said order.

Counsel for the appellant also submits that against the claim for promotion, the only stand of the respondent-Corporation was that the claim for promotion was against the benefit granted to Shri S.C.Gupta who was junior. It is submitted that respondent No.2, Ved Parkash Beniwal had filed a Civil Suit and got promotion over and above Shri S.C.Gupta as per the judgment and decree dated 03.03.2008 (Annexure P-2) and therefore, the appellant was also entitled for the said benefits being senior to Ved Parkash Beniwal.

The learned Single Judge in Jagmal Singh (supra) noticed these facts and has allowed the writ petition to the extent that the said persons were to be promoted as Assistant Engineer and Deputy Engineer from the dates mentioned in the order dated 09.05.2013 whereby Ved Parkash Beniwal had been granted the promotion from the date S.C.Gupta was promoted as Assistant Engineer and Deputy Engineer (Civil). The actual benefits including arrears of salary were restricted to 38 months prior to the filing of the writ petition. Relevant portion of the judgment read as under:

“The dispute as to whether promotions should be made field-wise or as though the cadre of Assistant Engineer is single, was brought for determination before the Civil Judge (Junior Division), Gurgaon in Civil Suit No.206/21.11.1998/07.11.2007 by the plaintiff Ved Parkash, who is respondent No.2 in the present petition. Ved Parkash filed suit against S.C.Gupta claiming promotion from the date S.C.Gupta was promoted i.e. 16.07.1993. The Civil Court on the materials on record held that the cadres of the plaintiff and the defendants are the same, that is, the research and development as is evident from the evidence. To confirm the view, the Civil Court found the documentary evidence brought by PW-2 to the effect that one D.S.Sanghwan

was working as S.E. (Mechanical), but was from the electronics background. The statement of PW-2 was corroborated by the testimony of DW-1 produced by the Department. The trial Court concluded that the plaintiff should have been considered for promotion from the date the junior was promoted, if there was no other ground to show that he was not capable of being promoted to the higher post. Accordingly, the suit was decreed. The first appeal filed by the HARTRON was dismissed. The Regular Second Appeal and the Special Leave Petition filed by the HARTRON met with the same fate. The decree of the Civil Court attained finality. After the dismissal of the SLP, the orders have been implemented in the case of plaintiff Ved Parkash by order dated 09.05.2013 (Annex P-10). Ved Parkash has been granted promotion from the date S.C.Gupta was promoted as Assistant Engineer (Civil) and Deputy Engineer (Civil). The present three co-petitioners are admittedly senior to S.C.Gupta.

The short point to be decided in this case is; whether the petitioners have a right to deemed date promotion with effect from the S.C.Gupta stands promoted. The answer is obviously in the affirmative to carry forward the mandate of equality before the law settled that senior should remain senior in service and the act denying the petitioners deemed date promotions from 16.07.1993 as Assistant Engineer and 16.02.2004 as Deputy Engineer are erroneous. The inter se seniority position is confirmed by the seniority list (Annex P-1). There can be no dispute that the three petitioners are senior to S.C.Gupta and, therefore, this petition has to succeed.

Accordingly, while allowing the instant petition, the impugned orders dated 12.03.2014 (Annex P-6, P-7 & P-8) are quashed.

It may be noticed that petitioners No.1 & 2 are retired, while petitioner No.3 is in service. The petitioners will be deemed to have been promoted as Assistant Engineers and Deputy Engineers from the dates mentioned in the order Annexure P-10. The petitioners will be entitled to all non-pecuniary benefits as a result of the declaration regarding seniority. The actual benefits to the petitioners including arrears of difference of salary etc. will be admissible from 38 months prior to the filing of the writ

petition. Consequential orders shall be passed in the cases of petitioners No.1 & 2 and the amount due to them shall be disbursed to them within eight weeks from the date of receiving of certified copy of this order. Petitioner No.3 will be shown senior to the private respondent for service benefits.

There will be no order as to costs.”

It is pointed out from Annexure P-7, the seniority-list of Senior Technical Assistants that the appellant is at Sr.No.5 whereas Jagmal Singh was at No.8 and Ved Parkash Beniwal was at No.12. It is also to be noticed that the present appellant had been appointed on 01.03.1988 whereas Jagmal Singh was appointed on 27.06.1989 and Ved Parkash Beniwal was appointed on 18.03.1991. In such circumstances, the appellant who had been appointed at an earlier point of time would be certainly entitled for the necessary benefits which the learned Single Judge had granted to others who were juniors.

Resultantly, respondent No.1 shall take action to re-consider the case of the appellant for promotion from the date his juniors were given the said benefits and to place him at the appropriate place in the seniority-list within a period of 3 months. The financial benefits also will be his entitlement for the period of 38 months prior to the filing of the writ petition.

The present appeal is accordingly allowed by modifying the order dated 19.08.2016 of the learned Single Judge in the above-said terms.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

20.09.2022
sailesh

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No