

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

CWP No. 37899 of 2018 (O&M)

Date of decision: 18.04.2022

Norang Rai Loohach

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice Arun Monga

Present : Mr. S. K. Malik, Advocate, for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Arun Monga, J. (oral)

Petitioner is before this Court *inter alia* seeking directions to the respondents to consider his case for promotion on the post of Executive Engineer after taking into consideration the period of current duty charge of the post of SDO which he has performed from 06.12.2013 to 15.05.2015.

2. Briefly, the facts first. Petitioner was appointed as Junior Engineer in Irrigation Department, Haryana, on 29.11.1979 on *ad hoc* basis. His services were regularised on 01.03.1982. With the permission of the department, he passed the degree in Civil Engineering in the year 1992. He was promoted as ASDE on 01.03.2000. Thereafter, he was given charge of the post of SDO Civil Engineering on 06.12.2013. He was given regular promotion as SDO (Civil) on 12.05.2015 and he joined on 15.05.2015.

3. The petitioner made representations to the respondents to promote him on the post of Executive Engineer. When no action was taken on the representation of the petitioner, he filed CWP No. 5823 of 2017, which was

disposed of with a direction to the respondents to consider and decide the representation within a period of three months vide order dated 19.05.2017 (Annexure P-10). The respondents rejected the case of the petitioner on the ground that he has not completed five years of service on the post of SDO vide order dated 04.08.2017 (Annexure P-11).

4. Learned counsel for the petitioner submits that as per applicable Rule, the petitioner became eligible for promotion to the post of SDO in the year 1992 as he was already possessed with the qualification of BE Civil in the year 1992. He had improved his qualification without pay, facing financial constraints. He further submits that DPC had also recommended the name of the petitioner for regular promotion in the year 2013 and lastly on 21.07.2014.

5. He would further argue that the petitioner had completed five years of service on the post of SDO (Civil) on 06.12.2018, which is required for promotion on the post of Executive Engineer and 79 posts of Executive Engineers are lying vacant. The department invited the applications from the retired Executive Engineers on contract, but the petitioner was not promoted. He again submitted representation dated 10.12.2018 (Annexure P-12), but to no avail. Hence, the present writ petition.

6. Per contra, it is submitted that the post of HSE-I are filled up by promotion from HSE-II officer on the basis of seniority. The Sub Divisional Officer promoted/ appointed in the year 2014 were/are senior to the petitioner. The competent authority has rightly not counted the period of current duty charge of the petitioner for the purpose of seniority or for the purpose of promotion. Other persons appointed in the year 2014 are also likewise waiting for their turn for promotion. The petitioner is thus not entitled for promotion as Executive Engineer as he is junior to them. No doubt, 70 posts of Executive Engineers are lying vacant and due to acute shortage of Executive Engineers in the Department, the work of

the department is suffering badly. As no SDO is eligible for promotion as Executive Engineer, the competent authority has decided to re-employ retired personnels in the interest of Government work.

7. In fact, even in the speaking order dated 04.08.2017 passed by Engineer-in-chief, all the contentions of the petitioner have been dealt with. The same is premised on the following reasoning:

“After receipt of order dated 19.05.2017, a thorough study of the same order was made and found that Hon’ble High Court has directed to the respondent No. 3 to decide representation of petitioner (Annexure P-11 within a period of three months. The foremost content of representation P-11) is that the petitioner has requested for promotion to the post of Executive Engineer but the same is under competency of Respondent No.2 and as such Respondent Department, Chandigarh has granted a personal hearing to the petitioner on 30.06.2017. The representation dated 28.12.2016 (Annexure P-11) was considered by Respondent No.2 under the light of provisions of THE HARYANA SERVICE OF ENGINEERS, GROUP-A, IRRIGATION DEPARTMENT ACT, 2010 and found that look after charge of the work of SDO was assigned to Sh. Norang Rai Loohach vide office order No. 9820-9920/2EE-II/ 2013 dated 05.12.2013. His services were regularized as SDO vide office order No. 2841-2940/ 2EE-II/ 2015 dated 12.05.2015 and as such he has rendered 2 years regular service as SDO.

It is further submitted that rule-6 of Haryana ACT No. 21 of 2010 provide that no person shall be promoted on or after the date of publication of this Act in the official Gazette, unless he :-

(a) Possesses one of the degrees as a regular full time student from a university; or possesses degree of the Associate Membership Examination of the Institution of the Engineers (India); and

(b) has rendered eight years service as SDO (Group B service) and passed the departmental examination of Group B Service;

Provided that the Government may relax the condition of eight years service in the case of an officer who has completed five years service;

The petitioner Sh. Norang Rai Loohach promoted regular SDO on dated 12.05.2015 and as such he rendered 2 years regular service as SDO whereas according to aforementioned provisions of Haryana Service of Engineers, Group A Irrigation Department Act, 2010 the minimum service required for promotion from SDO to XEN is 8 years, however, Government can relax the condition of experience in case of officers who have served for more than 5 years, hence the petitioner is not entitled for promotion to the post of Executive Engineer and his claim is hereby rejected.”(emphasis supplied).

Having perused the impugned order, I find no illegality either in facts or in law.

8. The impugned order is in tune with the applicable Rule 6 of Haryana Act no. 21 of 2010. Rule is not under challenge before this Court.

9. Concededly, petitioner on his own has pleaded that he had merely completed five years of service on the post of SDO as against statutory pre-requisite of minimum eight years. Accordingly, I find no ground to interfere in the present writ petition.

10. Dismissed.

18.04.2022

vs

(Arun Monga)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No