

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2388 of 2022 (O&M)
Date of decision: 16.01.2023

Saurabh Aggarwal

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Bal, Sr. Advocate, with
Mr. Dilshad S. Gill, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. The claim of the petitioner for promotion as a Junior Engineer from the post of a Work Munshi has been rejected by the Chief Engineer (South), Water Supply & Sanitation Punjab, Patiala, vide order dated 22.11.2021. Aggrieved therefrom, the petitioner has invoked the extraordinary jurisdiction of this Court.

2. The petitioner claims accelerated promotion on the basis of 15% quota for the diploma holders in Civil/Mechanical/Electrical Engineering, who possess 5 years experience. The petitioner joined as a 'Work Munshi' on 29.06.2010. After getting permission from the competent authority, on 21.07.2016, the petitioner took admission in Diploma (Evening Batch) in Civil Engineering from Longowal Polytechnic College, Dera Bassi. As per the permission granted, the petitioner was entitled to complete the Diploma course either in part time or in the evening classes. The petitioner took admission in evening classes because he was assigned duty at

Kajauli Water Works from 9.00 PM to 5.00 AM, whereas the evening

classes were held by the educational institution from 1.00 PM to 6.50 PM.

3. The office of Executive Engineer after noticing these facts, recommended the petitioner's case for promotion vide letter dated 22.09.2021. However, as already noticed, the petitioner's claim for promotion was rejected on the ground that the petitioner has not completed 4 years part time diploma course in the required field.

4. It is the stand of the petitioner that he completed 3 years regular diploma course after studying from 1.00 PM to 6.50 PM as his duty hours were 9.00 PM to 5.00 AM.

5. While contesting the writ petition, the respondents have taken a stand that the petitioner after getting the permission to study in the part time diploma course, duration of which is 4 years, has obtained diploma of 3 years duration which is not valid for the said promotion.

6. This court has considered the submissions of the learned counsels representing the parties.

7. It is evident from the perusal of particularly the communication dated 21.07.2016, that the petitioner was granted permission for doing the part time/evening diploma in Civil Engineering. Hence, the petitioner has not only been granted permission to study in the part time diploma course but he was also given liberty to complete the course while studying in the evening batch of Diploma in Civil Engineering.

8. The petitioner while filing the writ petition has specifically asserted that he has completed regular 3 years of Diploma in Civil Engineering by attending the evening shift of classes for which the permission was granted by the concerned authority. The respondents while filing the reply, have not disputed the aforesaid fact, however, stated that the

petitioner has obtained 3 years diploma after joining the regular course which was against the spirit of the permission granted to the petitioner.

9. Keeping in view the facts of the case, it is evident that the respondents have overlooked the fact that the petitioner was assigned the duty from 9.00 PM to 5.00 AM, whereas the petitioner took admission in Sant Longowal Polytechnic College, Dera Bassi in a regular evening course. The classes were held between 1.00 PM to 6.50 PM. Hence, the petitioner has not studied the course in violation of the permission granted by the department.

10. Keeping in view the aforesaid facts, the order dated 22.11.2021 is set aside while directing the respondents to consider the petitioner's claim for promotion from the due date within one month, from today. If the appointing authority finds that an employee will have to be displaced in order of the promotion to happen, an opportunity of hearing shall be granted to him before ordering the promotion of the petitioner.

11. With these observations, the writ petition is allowed.

12. All the pending miscellaneous applications, if any, are also disposed of.

January 16, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*