

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1055 of 1993(O&M)

Date of Order:09.10.2023

Punjab State Electricity Board, Patiala

..Appellant

Versus

Gandoor Singh, Sub Station Attendant

..Respondent

RSA No.1326 of 1992(O&M)

Date of Order:09.10.2023

Punjab State Electricity Board.

..Appellant

Versus

Sh. Mohinder Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellant-PSEB

Mr. Ajay Pal Singh, Advocate
for the respondent(s)(in RSA-1055-1993)

None for the respondent (in RSA-1326-1992)

ANIL KSHETARPAL, J

1. The two connected regular second appeals filed by the Punjab State Power Corporation Limited have come up for final disposal. Initially, the appeals were filed by the Punjab State Electricity Board which has now been reconstituted as Punjab State Power Corporation Limited.

2. In both the appeals, the courts below have relied upon the judgment passed in **Punjab State Electricity Board, Patiala and another vs. Ravinder Kumar Sharma and others, (1986) 4 SCC, 617** to hold that

different chances of promotion based on qualification with respect to one cadre of an employee is not permissible and offends the constitutional scheme. However, the learned counsel representing the parties are ad-idem that the aforesaid judgment passed in **Ravinder Kumar Sharma's case (supra)** has specifically been overruled by a larger Bench of the Supreme court in **P. Murugesan And Others vs State Of Tamil Nadu And Others , (1993) 2 SCC 340** and **Sohan Singh Sodhi vs Punjab State Electricity Board Patiala, 2007 (5) SCC, 528.**

3. In order to comprehend the issue involved in the present case, the facts are now noticed from Regular Second Appeal No.1055 of 1993.

4. The respondent herein (plaintiff before the trial court) was appointed as Sub Station Attendant on 02.03.1979. He filed a suit for declaration that he is entitled to be promoted as Sub Station Operator with effect from 02.09.1986 on the ground that his juniors have been promoted.

5. The defendant (appellant) while contesting the suit stated that as per the Office Order No.275-Eng-3(34) dated 11.3.74 and Office Order No.642-Eng, dated 17.8.76, 50% posts of Sub Station Operators are to be filled by promotion from those who are holding three years Diploma in Electrical Engineering, whereas the balance 50% are to be filled by promotion from those who are matriculates. It was also provided that the following criteria/time gap fixed for promotion from Sub Station Attendants to Sub Station Operators will be followed:-

“i) 9 years for those who are matriculate out of which 4 years service be as SSA;

ii) 4 years service as SSA for those who are matriculates and having passed two years course of electrician etc.

iii) 3 years service as SSA for those who are diploma in

electrical engineering of $\frac{3}{4}$ years duration.”

6. As already noticed, both the courts decreed the suit.
7. The learned counsel representing the parties are ad-idem that the instructions adopted by the respondent to provide different chances of promotion to the three years diploma employees working as Sub Station Attendants or Assistant Linemans are valid in view of the subsequent judgments passed by the Supreme Court. However, the learned counsel representing the respondent submits that in any case the respondent is eligible because he had an experience of 4 years, at that point of time.
8. On the other hand, the learned counsel representing the appellant submits that it is Clause (i) of the instructions extracted above which shall be applicable because the respondent was not possessing three years diploma in the Electrical Engineering as he possessed 1½ years ITI Certificate course.
9. The learned counsel representing the respondent once again made an attempt to convince the court that the case of the respondent will fall in Clause (ii) because he has obtained a certificate course in electrician skills.
10. This court has considered the submissions of the learned counsel representing the parties.
11. Admittedly, the respondent possesses ITI of 1½ years duration and not of 2 years duration.
12. Keeping in view the aforesaid facts and discussion, both the appeals are allowed. The judgment passed by both the courts below are set aside.
13. All the pending miscellaneous applications, if any, are also

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO