

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1867 of 1993(O&M)

Date of Order:18.10.2023

Punjab State Electricity Board and others

.Appellants

Versus

Harjit Singh

..Respondent

RSA No.1868 of 1993(O&M)

Punjab State Electricity Board and others

.Appellants

Versus

Goral Lal and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Pal, Advocate and
Mr. Japsehaj Singh, Advocate
for the appellant (in RSA-1867 and 1868-1993)

Ms. Sonia G.Singh, Advocate
for the respondent (in RSA-1867 of 1993)

Mr. Amrinder Singh, Advocate, for
Mr. Gaurav Sharma, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. These two connected appeals have come up for final disposal.
2. On 10.10.2023, after hearing the learned counsel representing the parties, the following order was passed:-

“CM-11542-C-2023

Allowed as prayed for.

The personal appearance of the Principal
Secretary, Department of Power, Patiala, is exempted.

MAIN

The learned counsel representing the appellant while relying upon the judgments passed by 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** submits that it is permissible for the employer to make regulations for promotion of the employees on the basis of qualifications. He submits that both the courts have erred in allowing two different suits filed by the respondent on the basis of judgment passed by the Supreme Court in **Punjab State Electricity Board, Patiala and another vs. Ravinder Kumar Sharma and others, (1986) 4 SCC, 617**. He submits that the respondents (plaintiff) in both the suits do not possess Diploma in Electrical Engineering as they were only ITI Certificate holders with 1½ to 2 years duration.

The attention of the learned counsel representing the respondents in both the appeals has been drawn to a detailed order passed by this court in **P.S.E.B. vs. Gamdoor Singh, (RSA No.1055 of 1993, allowed on 09.10.2023)**. She prays for a short accommodation to examine the matter and file her written note of submissions before the next date of hearing.

Adjourned to 18.10.2023.

To be listed in the urgent list.

A photocopy of this order be placed on the file of the other connected case.”

3. Today, the learned counsel representing the parties have also filed short synopsis.

4. The respondent(s) in both the appeals filed a suit seeking promotion as Junior Engineer (II) from the date their juniors were promoted. The respondents claim that they are senior lineman and their

juniors have wrongly been promoted in the year 1986

5. The defendants (appellants herein) while contesting the suit claim that the aforesaid juniors were diploma holders and they were promoted as per the quota fixed.

6. At one point of time, the court held that the quota system of giving promotion to the diploma holders is not valid. The Supreme Court in **Punjab State Electricity Board, Patiala and another vs. Ravinder Kumar Sharma and others, (1986) 4 SCC, 617**, struck down the instructions issued by the Punjab State Electricity Board. However, subsequently the aforesaid view was changed by the Supreme Court in **P. Murugesan And Others vs State Of Tamil Nadu And Others, (1993) 2 SCC 340**. Similarly, in **Sohan Singh Sodhi vs Punjab State Electricity Board Patiala, 2007 (5) SCC, 528**, the Supreme Court held that it is permissible for the employer to make regulations for promotion on the basis of qualifications.

7. The entire basis of the claim of the respondents is based on the fact that they are senior. However, it is not disputed that the juniors who were possessing Diploma in Electrical Engineering were given promotion. Those instructions have already been upheld in **Sohan Singh Sodhi's case (supra)**.

8. The learned counsel representing the respondents submits that the respondents have completed ITI certificate course of two years duration.

9. This court has considered the submissions of the learned counsel representing the parties.

10. As per the policy-instructions dated 14.05.1970 and 02.07.1973, the promotion of lineman to the post of Junior Engineer in the 50% quota meant for diploma holder is not available to the persons who do not possess the diploma. Both the courts have relied upon the judgment passed in

Ravinder Kumar Sharma's case(supra) which specifically stands overruled.

11. Keeping in view the aforesaid facts, both the appeals are allowed. The judgments and decrees passed by both the courts below are set aside.

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

October 18, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO