

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

115

CWP-25947-2013

Date of Decision : 05.09.2023

Ajay Kumar Sharma

..... Petitioner

Versus

National Fertilizers Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Harinder Sharma, Advocate
for the petitioner.

Mr.Mukul Aggarwal, Advocate
for the respondent-NFL.

JAGMOHAN BANSAL, J. (Oral)

1. On 24.08.2023, the following order was passed :

“The petitioner through instant petition under Article 226 of the Constitution of India is seeking notional seniority as Engineer Mechanical w.e.f 01.07.2002 whereas he has been granted notional seniority w.e.f 01.10.2002.

Learned counsel for the petitioner inter alia contends that petitioner vide memorandum dated 11.11.2002 was granted notional seniority w.e.f 01.07.2002, however, said seniority was granted on the basis of exam conducted by respondent in terms of inter-office-memo dated 07.07.2002. The petitioner vide memorandum dated 11.11.2002 was promoted to the post of foreman (Mechanical). The petitioner secured his degree of Mechanical Engineering in September 2002. The

petitioner on the basis of degree was granted notional seniority w.e.f 01.10.2002 whereas in terms of paragraph 5 of promotion policy dated 17.06.1994 he was entitled to notional seniority w.e.f 01.07.2002.

Para 5 of the promotion policy dated 17.06.1994 reads as:

“Determination of 'cut-off-date'”

With the implementation of the above Promotion Policy, the 'cut-off-date' for determining the eligibility will be 30th June of the year and promotions to all posts from Asstt. Engr. Upto Manager will be effective from 1st July of the year or from the date of taking over charge of the promoted post. While doing so, there could be some cases where the employee might not have completed the requisite length of service for being considered for promotion under the said scheme on the new cut off date and fall short of eligibility period. It has been decided that all such officers who were promoted on a date between 2nd July and 1st January, i.e. upto a maximum period of six months, will be eligible to be considered for promotion by allowing relaxation to experience to the extent of shortfall in the eligibility period and if found suitable, the promotion in such cases, will be made effective only from the date of completion of the requisite eligibility period in the existing scale now prescribed. They will, however, be given notional seniority w.e.f. 1st July of the year without any monetary benefit, so as to

streamline the 'cut off date' for determining eligibility for future promotions. This will be one time benefit during the entire service period.”

From the perusal of aforesaid paragraph, it comes out that said paragraph is applicable to officers holding position of Assistant Engineer at the time of claiming promotion.

On being asked whether the petitioner on 30.06.2002 was holding position of Assistant Engineer Mr. Sharma seeks time to get instructions.”

2. Learned counsel for the petitioner, on instructions from petitioner, who is present in Court, on being confronted with the fact that Promotion Policy of 1994 is applicable to Assistant Engineer and admittedly petitioner on the alleged date was neither Assistant Engineer nor having Degree of Engineering, seeks permission to withdraw this petition.

Dismissed as withdrawn.

(JAGMOHAN BANSAL)
JUDGE

05.09.2023
anju

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No