

2023:PHHC:106815
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21288-2018(O&M)
Date of Decision:-17.08.2023

JUGLAL AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND ORS

...Respondents

CWP-14162-2020(O&M)

BITTU SINGH AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jawahar Lal Goyal, Advocate
for the petitioners.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Hitesh Pandit, Advocate and
Mr. Divyansh Shukla, Advocate
for respondents No.2 to 5.

SANDEEP MOUDGIL, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing the impugned orders dated 30.06.2017, 10.07.2017 and 29.11.2017 (Annexure P-3) regarding promotion to the post of Assistant Foreman and Lineman qua respondents No.6 to 31.

Another relief has also been prayed to consider the case of the petitioners for promotion as Lineman and Assistant Foreman from the deemed date, on which their juniors were promoted with all the consequential benefits and arrears of salary and fixation of pay from the date, it became due for promotion.

Learned counsel appearing on behalf of respondents No.2 to 5 has referred to the contents of para No.5 of the written statement to counter para No.5 of the writ petition urging that there is a delay of 11 years in filing of the instant petition, on the strength that the petitioners have been working as such for long period and till the date of filing of petition, they never approached or questioned regarding the promotion to the post of Lineman and Assistant Foreman and against the seniority list of Assistant Lineman, which has been mentioned in terms of notification dated 10.01.2006.

Apart from that reference has been made in ***B.S. Bajwa vs. State of Punjab, AIR 1999 SC 1510*** and ***P.S. Sadasivaswamy vs. State of Tamil Nadu, 1975(1) SCC 152***, wherein claim of the petitioners was rejected and dismissed on the ground of delay. Referring to the part of abovesaid case laws, it has been observed that seniority should not be re-opened in such situations, after lapse of reasonable period i.e. to say 6 months or at best one year.

Learned counsel for the respondents No.2 to 5 has though further argued that it cannot be presumed that the petitioners were working in the same department but they were not aware of such promotions made in favour of private respondents No.6 to 31. Apart from that, there is no other argument raised on behalf of learned counsel for respondents No.2 to 5.

Be that as it may, after going through the preliminary objections made in para No.5 of the written statement on merits to counter para No.5 of the writ petition, it is considered that there is no denial to the fact that private respondents No.6 to 31 were junior to petitioners and the seniority list was not properly drawn. This Court is of the considered view that at the time of considering the case of the promotions, it is clearly incumbent upon the authority

concerned to look and examine the case, particularly when the seniority list prevalent at that time was depicting the petitioners to be seniors to respondents No.6 to 31. The case of promotions of petitioners have been denied, which fact could not come to their knowledge, on account of the fact that they were working in the field, whereas promotions were made at Nigam and no such circulation or publication of any such seniority list was ever made.

There is no justifiable explanation coming forth except the ground taken on delay, which also does not call to as the same is recurring cause of action for any Government employee who has addressed his precious time not only in the Department but as common man also in the department concerned. All due caution and precaution are expected to be taken by the authorities when considering the case of each and every employee, at least within the same cadre, on the basis of date of promotion/appointment and to draw seniority list after completing all the necessary exercise.

In the light of the above, the instant petition is allowed.

All pending miscellaneous applications, if any, also stand disposed of.

17.08.2023
P.Bhatt

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No