

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CWP-22929-2018

Date of Decision:-16.08.2023

SHAILJA KUMARI

...Petitioner

Versus

HARYANA VIDYUT PARSARAN NIGAM LTD AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunil Kumar Nehra, Advocate
for the petitioner.

Mr. Hitesh Pandit, Advocate
for the respondents.

SANDEEP MOUDGIL, J. (Oral)

The instant petition has been filed under Article 226 of the Constitution of India seeking issuance of writ in the nature of mandamus directing the respondents to redraw/refix the seniority list of the post of Shift Attendant and Grid Sub Station Operator and promote the petitioner to the post of Grid Sub Station Operator, which is promotional post against which respondent No.1 is in process of appointing 418 Grid Sub Station Operator through direct recruitment as one time measure, which would make the petitioner junior to direct appointee as respondents failed to timely promote the petitioner as per Recruitment and Promotion Policy (Annexure P-2).

Learned counsel for the petitioner submits that petitioner was appointed as Shift Attendant on 08.04.2011, who was further promoted to the post of Grid Sub Station Assistant vide order dated 16.06.2017. He contends that the

petitioner was eligible for promotion as Grid Sub Station Assistant actually on 08.04.2013 after completion of two years of service as per relevant rules. It is further the case set up on behalf of the petitioner that various persons as mentioned in the list dated 16.07.2014 (Annexure P-8) have been promoted from the post of Grid Sub-Station Operator as Junior Engineers, Sub Station, but the petitioner has been deprived of said benefit despite being similarly situated with those 41 persons.

I have given a considerable thought and perused the written statement dated 18.11.2019 filed on behalf of the respondents through Shri Ashok Kumar Sharma, Under Secretary, HVPNL, Panchkula, wherein it has been in clear terms stated that seniority on the post of Grid Sub-Station Operator (GSSO) is to be counted from the date of joining the said post or length of service on the post for further promotion. The two years' service is minimum length service for consideration of promotion under the policy but it has to be strictly on the basis of seniority-cum-merit. The respondents are on record to state that no junior to the petitioner has been promoted as Grid Sub Station Assistant (GSSA). The petitioner is also stated to have never challenge the promotions of such persons till she was granted promotion in the year 2017.

It is also noticeable here that the process of recruitment of Grid Sub Station Assistant through direct recruitment as one time measure was upheld by this High Court in CWP-4728-2017 and that decision attained finality as the Letters Patent Appeal against that order was dismissed by a Division Bench. The relevant part of the order dated 23.08.2017 passed in CWP-4728-2017 would read as under:-

“Consequently, leaving the question of seniority open, between direct recruits who are being appointed pursuant to the selection in question and the prospective promotees to the posts of Grid Sub-Station

Operators, this petition is dismissed as regards the challenge to the change of policy by which 418 posts of Grid Sub-Station Operators are being filled up by way of direct recruitment by the respondents, the said recruitment having been necessitated on account of an acute shortage in the said cadre, and the recruitment not directly affecting the petitioners' chances of promotion in the future.

Naturally, as and when the petitioners complete the experience statutorily required for promotion as Grid Sub-Station Operators, their cases for promotion to the said rank would be immediately taken up by the competent authority and promotion made if they are found to be fit, a specific stand having been taken that there are far larger number of posts vacant in the said higher rank than the number of candidates available in the feeder cadre thereto, i.e in the cadre of Grid Sub-Station Assistants.

Whether or not the petitioners should have been promoted within a particular period to the post of Grid Sub-Station Assistants from the post of Shift Attendant, thereby enabling them to have been promoted further to the post of Grid Sub-Station Operators before appointment of any direct recruits to the last said post, would be a question to be gone into in appropriate proceedings, if brought by the parties concerned.”

It is also to be considered here that the petitioner has not disclosed this fact qua which this litigation vide which the process of recruitment was affirmed.

Another fact needs to be borne in mind by this Court is an order dated 13.08.2018 referred to in the written statement by the respondent-Nigam that 64 numbers Grid Sub Station Assistant were promoted to the post of Grid Sub Station Operator, who had completed two years' requisite service and cleared the necessary Safety Code Test. At that stage the petitioner was not promoted because he has not completed two years' service as Grid Sub Station Assistant and a representation for consideration of petitioner was made by her alongwith such other such other Grid Sub Station Assistant dated 27.08.2018, which was

considered by the Comptent authority and having found not eligible, the same was rejected.

Having considered the eligibility criteria as recorded in the policy dated 15.07.2008/29.01.2016 (promotion policy/amended policy respectively. The petitioner is also not eligible according to clause 1.6.1 and 1.7.1, since the according to the order dated 16.07.2014 (Annexure P-8), the promotion of Grid Sub Station Operator to the post of Junior Engineer has been filled up once the requisite experience is completed by Grid Sub Station Assistant were promoted to the post of Grid Sub Station Operator.

In the light of above discussions and after examination of the record before this Court, it is found that the petitioner does not have any legal right accrued in her favour for promotion, since she has failed to establish and any person Junior to her has been promoted vide order dated 16.07.2014 (Annexure P-8). Moreover merely for having essential qualification would also not bestow any legal right for promotion until and unless she falls within the range of Seniority cum merit as compared to the other employees, who have been promoted. The fact remains that even otherwise subsequently the petitioner was promoted on 1.09.2019 after completion of two years' service, whereas experience of two years is also required at the post of Grid Sub Station Assistant to be eligible for consideration for the post of Grid Sub Station Operator.

Hence, I do not find any claim raised in the instant writ petition. Accordingly, it is ordered to be dismissed with no order as to costs.

16.08.2023
Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>