

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 112

**Civil Writ Petition No.20358 of 2023**

**Date of Decision:** *September 21, 2023*

Chander Bhan and another

..... PETITIONER(S)

*VERSUS*

State of Haryana and another

..... RESPONDENT(S)

. . .

**CORAM:**      **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

**PRESENT:** -    Mr. Damanjit Singh, Advocate for Ms. Monika Khatri,  
Advocate the petitioners.

. . .

**Tribhuvan Dahiya, J. (Oral)**

This petition has been filed *inter alia* seeking a writ of *certiorari* setting aside the order, dated 16.11.2018, Annexure P-6, passed by respondent No.2 whereby the petitioners' claim for promotion to the post of Sub Divisional Engineer (S.D.E.) during the year 1985-1986 has been rejected. Further, a direction has been sought for setting aside of government order No.2/19/2009-41E dated 18.08.2009 to the extent that petitioner No.2 has been promoted as S.D.E. without notional benefits including pay scale with effect from the date of promotion; non-computation of retiral benefits of petitioner No.2; determination of arrears of pension and revision of current pension payable to petitioner No.2 along with interest at the rate of eighteen per cent per annum.

2.                      Facts of the case in brief are, petitioners No.1 and 2 were appointed as Junior Engineers in the respondent department on 27.09.1973

and 12.12.1976; they retired from services on 31.12.2006 and 30.04.2012 respectively. It is claimed that they acquired AMIE, Bachelor of Engineering (B.E.) Degree in 1984-1985, and became eligible for promotion as S.D.E. Despite the posts being vacant their claim was not considered, nor were they granted notional promotion as S.D.E. from the year of eligibility.

3. By considering their representations, the respondents have passed the impugned order, dated 16.11.2018, to the effect that service on the post of S.D.E. is governed by Haryana Service of Engineers, Class-II Public Works Department (Irrigation Branch) Rules, 1970. As per Rule 9 read with Rule-7, the Department is required to annually prepare a list of officers suitable for promotion as on first day of January of that year. The selection for inclusion in the list is based on merit and suitability in all respects, with due regard to seniority. Merely by acquiring the qualification, the petitioners do not become eligible for promotion. Pursuant to judgment passed by the Supreme Court in Civil Appeal No.3837 of 1990, and in compliance of the directions issued therein, the department revised ranking/eligibility list for promotion from 1971 to 1991. Consequently, promotion orders in supersession of the earlier orders passed by the Department were made on the basis of vacancies and rankings of those years, vide order dated 01.12.1992. The impugned order further records that petitioner No.1 did not find place in the list for promotion to the post of S.D.E./S.D.O. till his retirement, nor any officer junior to him was promoted till that time. However, petitioner No.2 found place in the zone of consideration against vacancy for the year 2009, and was accordingly promoted as S.D.E. vide order dated 18.08.2009. Therefore, the petitioners' claim for promotion during the year 1985-1986 on the basis of degrees

acquired by them was not found tenable, and the representation was rejected.

4. There is no illegality or infirmity in the impugned order, dated 16.11.2018, passed by the respondents.

5. The order, dated 18.08.2009, granting promotion to petitioner No.2 as S.D.E. has not been placed on record. The impugned order is also silent about the grant of notional benefits, if any, to him. Therefore, the grievance with regard to notional benefits etc. from the date of promotion cannot be considered.

6. The petition is, therefore, disposed of by upholding the order, dated 16.11.2018, and granting liberty to petitioner No.2 to file a representation before respondent No.2/Engineer-In-Chief, Haryana, Irrigation Department, claiming notional benefits and the consequential revision or pension etc. within a period of two weeks. In case any such representation is filed, the same shall be decided by respondent No.2 by passing a speaking order in accordance with law, within a period of eight weeks from the date of receiving the representation.

**(Tribhuvan Dahiya)**  
**Judge**

**September 21, 2023**  
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Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No