



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-2736-2019 (O&M)

Date of Decision:28.11.2024

Ashwani Kumar

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam (UHBVN) and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Shailendra Sharma, Advocate for the petitioner.

Mr. Divyansh Shukla, Advocate for
Mr. Hitesh Pandit, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* for directing the respondents to consider the petitioner for promotion to the post of Junior Engineer (JE) w.e.f. 22.08.2016 i.e. the date on which the person junior to the petitioner namely Sh. Tarlochan Singh has been promoted as JE.

2. It is submitted by learned counsel for the petitioner that it is a case where the petitioner was appointed as Helper-I on 13.04.1991 in the Workshop (Ambala Division) of the respondent-Nigam. However, as a policy decision in the State of Haryana, all the workshops were closed in the year 2000. Despite this some of the employees including the petitioner were retained in different workshops. In this manner, the petitioner was retained in the workshop whereas his junior namely Tarlochan Singh who was assigned



to another department and was otherwise junior to the petitioner was promoted to the post of Junior Engineer in 2016 due to not being retained in the workshop. Thereafter vide Annexure P-1 dated 11.04.2013 issued by the respondent-Nigam, it was decided that in order to remove the hardship of the existing staff working in the workshops, the seniority would be clubbed and fixed with operation staff in UHBVNL on the basis of the date of joining. He submitted that after passing of the aforesaid order vide Annexure P-1, seniority of the petitioner was to be clubbed and fixed with the operation staff in UHBVNL and the aforesaid Junior Engineer namely Tarlochan Singh who was otherwise junior to the petitioner but posted in the Operation Staff, was promoted but the petitioner was not promoted only because he was retained in the workshop. He submitted that after the passing of Annexure P-1 on 11.04.2013, the respondent-Nigam should have fixed the seniority of the petitioner and thereafter should have promoted the petitioner before the aforesaid Tarlochan Singh who was admittedly junior to the petitioner. In this regard, he also referred to Annexure P-9 dated 13.09.2017 passed by respondent-Nigam, which clearly shows that as of 13.09.2017 the seniority of the petitioner is shown to be over and above that of aforesaid Tarlochan Singh but before passing of Annexure P-9 Tarlochan Singh who was admittedly junior to the petitioner, had already been promoted in the year 2016 and submitted that the petitioner was deprived of the right to be considered for promotion despite the fact that Annexure P-1 was passed in the year 2013. He also submitted that repeated representations were given to the respondent-Nigam in this regard, requesting the promotion of the petitioner from the same date as that of the aforesaid junior Tarlochan Singh was promoted, along with



all consequential benefits, but no order has been passed by the respondent-Nigam .

3. Learned counsel appearing on behalf of the respondents submitted that, in view of the factual position stated by learned counsel for the petitioner, the respondent-Nigam will pass an order on the aforesaid grievance of the petitioner. In case the petitioner wishes to submit any comprehensive representation, the same will also be considered in accordance with law.

4. I have heard learned counsels for the parties.

5. The only grievance of the petitioner in the present case is that the petitioner was earlier working in a workshop, and as a matter of policy decision, all the workshops in the State of Haryana were closed. All the employees were shifted to other departments, including the operation staff, but some employees, including the petitioner, were retained in the workshop. Thereafter a policy decision was taken again vide Annexure P-1 for the purpose of clubbing of seniority of those employees who were retained in different workshops with that of the Operation Staff and it was at that point of time the seniority of the petitioner ought to have fixed but the seniority was fixed in the year 2017 vide Annexure P-9. However, before the aforesaid seniority was fixed a person named Tarlochan Singh, who was junior to the petitioner, had already been promoted. The claim of the petitioner is that he should also be promoted from the same date and all the consequential benefits should be granted to him.

6. Learned counsel appearing on behalf of the respondents submitted that they will pass an order pertaining to the aforesaid grievance of the petitioner



7. In view of the aforesaid facts and circumstances, the present petition is disposed of.

8. The petitioner shall file a comprehensive representation with the respondent-Nigam raising the aforesaid grievance. In the event of the petitioner filing such a representation, the same shall be considered and decided by the Managing Director of the respondent-Nigam in accordance with the law, after affording an opportunity of personal hearing to the petitioner or his counsel, within a period of three months.

9. Needless to say that if the petitioner is found entitled for the claim which he has raised, he will be granted all the benefits within next two months.

(JASGURPREET SINGH PURI)
JUDGE

28.11.2024
shweta

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