



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-12169-2000(O&M)
Date of Decision:04.11.2024

HARBANS LAL

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Naveen Daryal, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 31.08.2000, whereby the petitioner's representation seeking promotion as Laboratory Technician Grade-A has been rejected; further, a writ of *mandamus* has been sought directing the respondents to promote the petitioner as such with effect from 03.12.1997, the date from which his junior/fourth respondent has been promoted, with all consequential benefits.

2. Facts of the case in brief are, the petitioner joined his services as Laboratory Technician Grade-B in the Department of Computer Science and Engineering on 18.08.1992. He belongs to Scheduled Caste (SC) category, and has been placed at no.4 in the seniority list of Laboratory Technicians Grade-B issued by the College, whereas the fourth respondent has been placed below him as a general category employee. The latter was promoted as Laboratory Technician Group-A in the pay scale of ₹1400-2600 with effect



from 03.12.1997, but the petitioner's representation seeking promotion from that date was rejected vide impugned order dated 31.08.2000.

3. Learned counsel for the petitioner contended that as apparent from the impugned order itself there were two sanctioned posts of Laboratory Technician Grade-A in the Department of Computer Science and Engineering, out of which one was vacant. Accordingly, the petitioner has a right to be considered against the same; especially when his junior has already been promoted against one of the posts. He also contended that the petitioner fulfilled the requisite qualification as he possessed Diploma in Engineering and the requisite experience as well. Learned counsel further contended that even the fifth respondent, who was working as Driver in the College, had also been promoted as Laboratory Technician Grade-A; therefore, there was no ground to ignore the petitioner for want of experience as he had been working as Laboratory Technician Grade-B.

4. Learned State counsel, on the contrary, contends that promotion to the post of Laboratory Technician Grade-A is governed by Rule 9 of the Haryana Technical Education Department (Chhotu Ram State College of Engineering, Murthal, Technical Staff Group-C) Service Rules, 1997, (for short, 'the 1997 Rules'). The fourth respondent was promoted in Chemical Engineering Department on fulfilling the requisite qualification and experience. The petitioner, however, lacked the requisite experience as he was not working in the said Department as Laboratory Technician Grade B. The fifth respondent has also been promoted in a different Department as per the Rules, and there is nothing illegal about it.



5. Heard.

6. Promotion in the Department to the post of Laboratory Technician Grade-A is governed by Rule 9 of the service rules- the 1997 Rules, which is as under:

Rule 9 - Method of Recruitment

(c) in the case of Laboratory Technician Grade A-

- (i) 75% by promotion from amongst the Laboratory Technician Grade B, Electrician or Driver;
- (ii) 25% by direct recruitment; or
- (iii) by transfer or deputation of an official already in the service of any State Government or the Government of India;

Appendix B – Academic qualifications and experience, if any, for appointment other than by direct recruitment.

1.&2. xxx xxx xxx

3. Laboratory Technician Grade "A"

Diploma in Engineering or Certificate from Industrial Training Institute in relevant field with four years service as Laboratory Technician Grade B or Electrician.

For the post of Laboratory Technician Grade A in Automobile Laboratory or Automobile Repair Section in Mechanical Engineering Department, Drivers with Matric having four years service.

Apparently, for promotion to the post of Laboratory Technician Grade A the requisite qualification is Diploma in Engineering or certificate from Industrial Training Institute in the relevant field with four years' service as Laboratory Technician Grade-B or Electrician.

7. There is no denying the fact that the petitioner was appointed as Laboratory Technician Grade-B in the Department of Electronics Engineering, and belonged to SC category. The fourth respondent was



working on the post in another department/Chemical Engineering Department and had been promoted there as Laboratory Technician Grade-A. The petitioner's claim for promotion on that basis is not sustainable since he has worked in the Department of Electronics Engineering, and as per the 1997 Rules his experience would be valid for promotion in that Department. Further, the seniority position referred to by the learned counsel is in a joint seniority list of Class III Technical Staff, Annexure R-1, and claim for Departmental promotion on that basis is not sustainable. Still further, the petitioner could not claim promotion only because one post was vacant in the Department of Electronics Engineering, as none of the petitioner's junior in the Department had been promoted as Laboratory Technician Grade-A. And as per the settled law, an employee cannot claim promotion merely because a post is vacant. Accordingly, no exception can be taken to the impugned order not considering him for promotion.

8. So far as promotion of the fifth respondent, who statedly has worked as a Driver, is concerned, there is specific provision under Rule 9 that for the post of Laboratory Technician Grade-A in Automobile Laboratory or Automobile Repair Section in the Mechanical Engineering Department, Drivers with Matric having four years' experience are eligible. It remains undisputed that the fifth respondent has been promoted as Laboratory Technician Grade-A in the Mechanical Engineering Department. Accordingly, he had the requisite experience and there was no violation of Rules in giving him promotion.

9. In view thereof, there is no merit in the petition and it stands dismissed.

10. Pending miscellaneous application(s), if any, shall also stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

04.11.2024
Ad

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