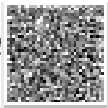


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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.3156 of 1998 (O&M)
Reserved on: 18.09.2024
Pronounced on: 30.09.2024

Jaswinder Singh and others

....Petitioners

Versus

The Punjab State Electricity Board (now PSPCL) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Satinder Khanna, Advocate for the petitioners.

Mr. Himmat Singh Sidhu, Advocate for respondent No.1.

None for respondents No.4, 6, 8, 9 and 21.

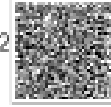
Respondents No.15, 17, 19, 23, ex parte
vide order dated 16.04.1998.

NAMIT KUMAR J. (Oral)

1. The petitioners have invoked the writ jurisdiction of this Court, under Articles 226/227 of the Constitution of India, for directing respondent No.1 to consider the case of the petitioners for promotion as Assistant Executive Engineer earlier to the dates of promotion of respondents No.2 to 26 and further promote the petitioners as Senior Executive Engineer on completion of ten years of service prior to respondents No.2 to 26 and fix the seniority of the petitioners in the seniority list of Assistant Executive Engineers above respondents No.2 to 26 and further to declare the Instructions dated 17.10.1996 (Annexure P-1) amending the Regulations with retrospective effect are also applicable to the petitioners.

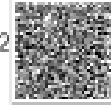
2. The brief facts as have been pleaded in the present petition

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are that the petitioners are degree-holders in Electrical/Mechanical Engineering and belong to Scheduled Castes Category and were appointed as Assistant Engineers in the erstwhile Punjab State Electricity Board (now Punjab State Power Corporation Limited). Petitioner No.1 – Jaswinder Singh joined the Board on 18.06.1987, petitioners No.2, 3 and 5 namely Jai Ram, Ajit Singh and Sukhdev Singh joined the Board on 27.02.1987 and petitioner No.4 Dharam Pal joined the Board on 05.03.1987, respectively. Further promotion from the post of Assistant Engineer was to the post of Assistant Executive Engineer which is governed by ‘Punjab State Electricity Board, Service of Engineers (Electrical) Regulations, 1965’. Under Regulation 19, it has been prescribed that the members of the service shall be required to pass the departmental accounts examination prescribed for engineering officers of the Board under Appendix I(L) of the Electricity Board, Manual of Orders, as amended from time to time, within 03 years from the date of their respective appointments/promotions and they shall also be allowed to re-appear in the examination even after expiry of three years of service subject to the condition that the third increment falling due on completion of three years of service shall only be given retrospectively, if they pass the examination in six chances (whether availed or not). The examination held within six months of the date of their appointments/promotions will, however, not be counted towards six chances and they will not be considered for promotion until they have passed the said examination. Respondents No.2 to 26 were

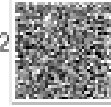
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promoted as Assistant Executive Engineers on 20.02.1992 as they were fully eligible and had also passed the departmental accounts examination, which was essential for promotion. The petitioners passed the departmental accounts examination in October, 1995, except Sh. Jai Ram (petitioner No.2), who passed the same in June, 1995 and on their passing the departmental accounts examination, they all were promoted as Assistant Executive Engineers on 06.08.1996 and since private respondents were promoted way-back in the year 1992, therefore, they were ranked senior to the petitioners as Assistant Executive Engineers. Thereafter, the 1965 Regulations have been further amended and circulated vide office order dated 17.10.1996, according to which the Assistant Engineers whose term comes up for promotion as Assistant Executive Engineer on the basis of seniority will be considered for promotion even if they have not passed the departmental accounts examination but they will not be granted promotional increment in the regular scale of Assistant Executive Engineers and will not be considered for further promotion as Senior Executive Engineer, however, the said amendment was made applicable w.e.f. 17.10.1996, the date of issuance of office order and shall apply only in future promotion cases.

3. A detailed written statement on behalf of the respondents has been filed wherein the claim of the petitioners has been opposed. It has been stated in the written statement that passing of departmental accounts examination for promotion was an essential prerequisite

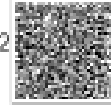
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condition since the formation of the Punjab State Electricity Board and the purpose of passing the same was to increase the efficiency in the departmental work. The officers who had not passed the departmental accounts examination were not considered for promotion from Assistant Engineers to Assistant Executive Engineers, except those who were exempted from passing the departmental accounts examination as per Rules. It has further been stated that both General and Scheduled Castes categories had been ignored for promotion due to non-passing of the departmental accounts examination in the past. The seniority of these officers promoted on 06.08.1996, has been fixed as per 1965 Regulations, as applicable at that time. The petitioners joined the Board on different dates from February to June, 1987. The petitioners were promoted as Assistant Executive Engineers after they passed the departmental accounts examination and as per Regulation 19(2) all the officers promoted prior to 06.08.1996 shall rank junior to all those who stood promoted earlier to them. It has also been stated that the grant of exemption from passing the departmental accounts examination was considered in extremely hard cases such as the officers who have attained the age of 54 years.

4. The grievance raised by the petitioner in the present petition is that the amendment made in year 1996 in Regulations 1965 shall be made applicable retrospectively by the respondents and the petitioners be also given the benefit of such amendment and be declared senior to the private respondents.

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5. In support of the said grievance, learned counsel for the petitioner has relied upon the judgment of Full Bench of this Court in ***“Baldev Raj vs State of Punjab and others”***, passed in CWP No.16859 of 1994, decided on 17.09.1996.

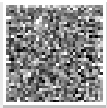
6. Per contra, learned counsel for the respondents opposed the claim of the petitioners on merits and submitted that seniority of the petitioners has rightly been fixed at the places where their seniority should have been fixed as per Regulations.

7. I have heard learned counsel for the parties and perused the record.

8. The only question arises for consideration before this Court in the present case is as to whether the petitioners can be declared senior to the private respondents in the rank of Assistant Executive Engineers and whether the amendment made in the year 1996, in regulations of 1965, which has been made applicable on issuance of office order dated 17.10.1996 (Annexure P-1), can be made applicable retrospectively in the case of the petitioners also or not.

9. The admitted facts are that the private respondents, who had passed their departmental accounts examination and were fully eligible for promotion were promoted on 20.02.1992, whereas the petitioners have passed the said examination in the month of October, 1995 except Sh. Jai Ram (petitioner No.2), who passed the said exam in the month of June, 1995 and thereafter, they were promoted to the post of Assistant Executive Engineers on 06.08.1996. Prior to 17.10.1996, passing of departmental accounts examination was a prerequisite

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condition and consequently, the private respondents as well as the petitioners were promoted to the post of Assistant Executive Engineers, after they passed the said departmental accounts examination. The amendment in the Regulations, which were circulated vide office order dated 17.10.1996 (Annexure P-1), clearly states that the amendments in the Regulations are prospective and shall apply only in cases of promotion in future and, therefore, the said amendment whereby condition of passing the departmental accounts examination has been diluted cannot be made applicable retrospectively in the case of the petitioners, who have already been promoted on 06.08.1996.

10. The judgment cited by learned counsel for the petitioner is clearly distinguishable and not applicable to the facts of the present case as in the said case, there was no issue of applying the amendment in retrospective manner. Even the aforesaid office order dated 17.10.1996 (Annexure P-1), has not been challenged by the petitioners and during the pendency of the present petition, all the petitioners and private respondents have retired from service on attaining the age of superannuation.

11. In this view of the matter, finding no merit, the present petition is dismissed with no order as to costs.

30.09.2024
yakub

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No