



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

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LPA-912-2024 (O&M)
Date of Decision.:18.11.2024

Sudarshan Kumar

Appellant

Vs.

Uttar Haryana Bijli Vitran Nigam and Others

Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Karan Singh, Advocate
for the appellant.

DEEPAK SIBAL, J. (ORAL)

1. On 07.09.1978, the appellant was appointed as a Peon in the erstwhile Haryana State Electricity Board (now Uttar Haryana Bijli Vitran Nigam) (for short, the Nigam). His services as a Peon were regularized on 19.03.1979. On 11.08.1994, he was promoted as Lower Division Clerk (for short 'LDC'). One of the conditions contained in the appellant's promotion order was that within one year from the date of his joining as LDC he was required to pass type test(s) in English/Hindi at the speed of 25/30 words per minute and that if he failed to do so, he shall not be entitled to any annual increment till he passes the said test(s). The appellant passed the required type test(s) on 11.05.2012 after which he received his increments and the benefits of all the increments which had accrued to him between the date of his promotion as LDC and the date of passing of his type test(s) were granted towards fixation of his pay. However, no arrears between the date of his

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promotion as LDC and the date of passing of his type test(s) were granted for which he represented to the Nigam. Through order dated 11.12.2017 the appellant's representation was rejected. The appellant challenged such rejection through filing of a writ petition before this Court being CWP-12180-2018 which, through the impugned judgment, has been dismissed by a Learned Single Judge of this Court.

2. Learned counsel for the appellant has been heard.

3. The appellant, who was serving the Nigam as a Peon, through order dated 11.08.1994, was promoted as a LDC. Such order contained the following terms : -

1. The promotion of the above official shall not confer upon them any right of seniority over those who may otherwise be senior to them but whose cases have not been decided for any reason what-so-ever.
2. The above officials shall remain on Head Office Cadre.
3. The above officials shall remain on probation for one year from the date of joining as LDC.
4. The above officials would have continued to officiate as Peon, DMA and Havildar but for their promotion as LDC.
5. The above officials are required to qualify the test in type writing in Hindi/English at the speed of 25/30 W.P.M. respectively within one year from their date of joining as LDCs. In case, they fail to qualify the prescribed test within the stipulated period they shall not be allowed any annual increment till the passing of the said type-test.
6. That they should produce the original Matriculation Certificate at the time of joining duty.

(Emphasis supplied)

4. As per condition No.5 in the appellant's order promoting him as



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LDC, he was required to qualify the type tests in English/Hindi within one year from the date of his joining as LDC and that if he failed to qualify the prescribed test(s), he shall not be entitled to the grant of any annual increment till the passing of the said tests.

5. The relevant portion of the Recruitment and Promotion Policy (for short, the Policy) of the erstwhile Haryana State Electricity Board dated 19.10.1990 issued under Section 7(c) of Electricity (Supply) Act, 1948 (for short, the 1948 Act) reads as under:-

“No.82/Reg-29/L-I In exercise of powers conferred under Clause (c) of Section-79 of Electricity (Supply) Act, 1948 and all other enabling powers in this behalf, the Haryana State Elec. Board is pleased to make the following Revised Recruitment and Promotion Policy in respect of Ministerial Service (Head Office Cadre):-

1.0 Lower Division Clerk

1.1 80% posts shall be filled-up by direct recruitment from amongst persons having the following qualifications: -

- (a) Matric with Ist Division or 10+2 with 2nd Division or equivalent examination from Education Board/University recognised by the Govt. of Haryana.

OR

Graduate from any University recognized by the Govt. of Haryana.

- (b) Passed Hindi upto 10th standard.
(c) Passed type test either in Hindi or in English at the speed of 25/30 WPM respectively.

1.1.1 The directly recruited LDCs shall remain on training for a period of 6 months or as prescribed by the Board from time to time. The training period, may be curtailed by the appointing authority if the exigencies of work so require. The trainee would get regular pay scale plus allowances as admissible from time to time during the training period.

1.2 20% posts shall be filled up by appointment from amongst the peon, DMAs, Restorers, Havildars, Daftries, Photodars, Book



Binders, Safai Karamcharies, Malies and Chowkidars etc. having the qualification of Matric or 10+2 examination from Education Board / University recognised by the Govt. of Haryana.

- 1.2.1 The inter-se seniority list of the categories stated under Para 1.2 above for promotion to the post of LDC, shall be determined from the date of passing the Matriculation of 10+2 Examination subject to the condition that the official has completed 5 years service on 1st July preceding to the date of filling-up the post.
- 1.2.2 Such ranking list, shall be prepared on Ist July each year and shall be valid for one year.
- 1.2.3 Such official shall have to qualify test in type-writing in Hindi/English at the speed of 25/30 W.P.M. respectively within one year of his promotion. In case, a promotee fails to qualify presecribed test within the stipulated period, he/she shall not be allowed any annual increment till the passing of said test. However, no reversion will be made on lower post from which he/she was promoted as LDC. The benefits of all increments earned but allowed due to non-passing of test will be allowed from the date of passing of the prescribed test. The benefits of increment, so allowed, be given towards pay fixation only and no arrear will be paid for the period during which he/she could not qualify the test.
- 1.3 If officials to be appointed by promotion under Para 1.2 above, are not available for two consecutive years those vacancies may be diverted to direct recruitment and filled-up from amongst persons having the qualification given under Para 1.1 above.”

(Emphasis supplied)

6. As per the afore-quoted policy of the Board, which was issued under Section 7(c) of the 1948 Act, a Class-IV employee promoted as LDC was required to pass type tests within one year of his promotion and if he failed to do so, he was not entitled to the grant of annual increments till the

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passing of the said tests. These instructions further provided that, in case, he did not pass the said tests he would not be reverted but the benefits of the increments which he would earn during the period that he did not pass his tests would be granted after he passes the same but with no arrears.

7. The appellant was promoted as LDC on 11.08.1994 and passed the required type test(s) on 11.05.2012. As per the afore quoted terms contained in his promotion order and the applicable policy of the Board lead us to the irresistible conclusion that the benefit of the increments that he earned between 11.08.1994 and 11.05.2012, would be notionally granted to him towards fixation of his pay and that he would not be entitled to any arrears especially when neither the afore-quoted term No.5 of the order promoting him as LDC nor Clause 1.2.3. of the policy of the Board dated 19.10.1990 has been challenged by the appellant.

8. The appellant's reliance on the judgment of a Division Bench of this Court dated 27.08.2013 in LPA No.1711 of 2011 titled as "***Uttar Haryana Bijli Vitram Nigam Ltd. v. Phool Chand***" is misconceived as in that case, the issue considered and decided by the Division Bench was on the basis of the recruitment and promotion policy of the Board dated 07.10.1978 which is not applicable in the present case because the appellant was promoted in the year 1994 and at that time the recruitment and promotion policy dated 07.10.1978 stood revised through the afore referred policy dated 19.10.1990. A reading of both the policies show that the policy dated 07.10.78 neither contained the afore quoted Clause 1.2.3 as is found in the policy dated 19.10.1990 nor any other clause similar thereto.



9. In the light of the above discussion, we find no merit in the instant appeal and the same is hereby dismissed.

Pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK GUPTA)
JUDGE

November 18, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No