



CWP-13062-2005

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

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CWP-13062-2005

Date of Decision : 07.05.2024

SURAJ NARAIN BIHANI

... PETITIONER

Versus

BBMB & ORS.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Suram Singh Rana, Advocate and
Mr. Dipanshu Kapur, Advocate
for the petitioner.

Mr. Rajesh Garg, Senior Advocate with
Mr. Pranav Chadha, Advocate
for respondent No.1.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 08.12.2004 (Annexure P-6) whereby respondent has denied him benefit of Time Bound Promotional Scale (for short 'TBPS') from the date of joining BBMB.

2. The petitioner joined Rajasthan Government as Junior Engineer on 07.10.1978. He was deputed to BBMB on State sharing quota. At the time of deputation to BBMB, he was assigned designation of Assistant Engineer, though he was not formally promoted to said post. It is apt to notice here that Assistant



Engineer is a promotional post of Junior Engineer. The parent department promoted him w.e.f. 12.03.1999.

3. The petitioner claims that he has worked with BBMB from 1983 as Assistant Engineer, thus, he is entitled to benefit of TBPS as per Circular dated 24.05.1990 (Annexure P-3) issued by Punjab State Electricity Board and adopted by BBMB. As per said circular, if an Assistant Engineer completes service of 09 years without further promotion, he is entitled to higher scale of Rs.3500/-. If he completes 16 years of service without further promotion, he is entitled to next higher scale of Rs.4500-6300.

4. Mr. Suram Singh Rana, Advocate submits that the petitioner worked with BBMB as Assistant Engineer from the date of his deputation. He joined BBMB as Assistant Engineer, thus, he was entitled to benefits of TBPS in terms of Circular dated 24.05.1990.

5. Per contra, Mr. Rajesh Garg, Senior Advocate submits that aforesaid circular is applicable to a directly appointed regular Assistant Engineer whereas petitioner at the time of his joining BBMB was Junior Engineer though he was assigned designation of Assistant Engineer by his parent department. He was actually promoted to said post w.e.f. 12.03.1999. The circular dated 24.05.1990 is applicable to directly appointed Assistant Engineer whereas the petitioner was a promotee and originally he was appointed as Junior Engineer. In support of his contention, he places reliance upon a judgment of Supreme Court in **Bhakra Beas Management Board vs Krishan Kumar Vij and anr., 2010 (8) SCC 701.**



6. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

7. By order dated 26.10.2006, the present petition was adjourned sine die to await decision of SLP No.14556 of 2005. The said SLP stands adjudicated by Supreme Court in Krishan Kumar Vij's case (supra). The petitioner is claiming that he is entitled to TBPS as contemplated by circular dated 24.05.1990 because he joined BBMB as Assistant Engineer.

8. From the perusal of record, it is evident that the petitioner joined his parent department on 17.10.1978. He was deputed to BBMB on State sharing quota. He was assigned designation of Assistant Engineer by parent department, however, he was actually promoted as Assistant Engineer w.e.f. 12.03.1999. In the order dated 05.05.2003 whereby he was deputed to BBMB, it was clearly mentioned that his promotion is meant for the purpose of his posting to BBMB projects only. The communication dated 20.05.2002 of Superintending Engineer, Irrigation Department, Rajasthan further clarifies that the petitioner was promoted as Assistant Engineer vide office order dated 12.03.1999. The parent department of the petitioner vide communication dated 11.06.2004 intimated respondents that benefit of promotion to petitioner is available from the date of his joining on the promotional post.

9. The benefit of TBPS as per circular dated 24.05.1990 is available to directly appointed regular Assistant Engineers whereas petitioner was neither directly appointed nor regular Assistant Engineer. He was promotee and joined BBMB as temporary Assistant Engineer.



10. The Supreme Court in *Krishan Kumar Vij's case (supra)* has candidly held that benefit of circular dated 24.05.1990 is available to directly appointed Assistant Engineer and it is not available to promotee. The Court has further observed that writ petition was liable to be dismissed on the ground of delay and laches.

11. The petitioner was concededly appointed as Junior Engineer and thereafter, he was promoted as Assistant Engineer. He did not work from 1983 to 1999 as regular Assistant Engineer. His regular appointment as Assistant Engineer came into effect from the date of his actual promotion by parent department. The case of the petitioner is squarely covered by aforesaid judgment of Supreme Court in *Krishan Kumar Vij's case (supra)*.

12. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

07.05.2024

anju

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No