



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

CWP-11606-2022

Date of Decision:13.08.2024

DHARMINDER SHARMA

..... Petitioner

Versus

CHANDIGARH ADMINISTRATION AND OTHERS.... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Hemant Bassi, Advocate and
Ms. Neelam Sharma, Advocate for the petitioner.

Mr. Amit Jhanji, Sr. Advocate with
Ms. Zaheen Kaur, Advocate for respondent No.1.

Mr. Sanjiv Ghai, Advocate with
Ms. Parminder S. Kaul, Advocate for respondents No.2 & 3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of recommendation of Committee dated 13.04.2021 (Annexure P-23) and direction to the respondent to amend recruitment rules for the post of Superintending Engineer (B&R) after incorporating instructions dated 08.08.2019 (Annexure P-12).

2. The petitioner joined Chandigarh Administration in the Engineering Department on 13.03.1989 on the post of Sectional Officer (Civil). In May' 1996, he was transferred to Municipal Corporation, Chandigarh. W.e.f. 29.07.2009, he was assigned current duty charge for the post of Sub Divisional Engineer. He was promoted to the post of Sub Divisional Engineer (B&R) w.e.f. 13.11.2015. W.e.f. 16.10.2017, he was assigned additional charge of Executive Engineer (B&R) in addition to his charge of Sub Divisional Engineer (B&R). He claims that he should be appointed on the post of Superintending Engineer (B&R) because he is the

only eligible candidate in the cadre of Executive Engineers.

3. As per regulations governing the post of Superintending Engineer, a person having experience of 6 years of ‘Regular Service’ of the post of Executive Engineer with Municipal Corporation, Chandigarh is eligible for the post of Superintending Engineer. The respondent prior to filing of instant petition appointed Mr. Inderjit Gulati as Superintendent Engineer. The petitioner prior to filing petition was not having 6 years experience, thus, he was not even considered for the said post. For the ready reference, relevant extracts of the Municipal Corporation, Chandigarh Service Regulations, 2012 are reproduced as below:

Name of the post	Superintendent Engineer
Method of recruitment whether by Direct Recruitment or by Promotion or by Deputation Transfer and Percentage of the vacancies to be filled by various methods.	100% by promotion failing which by deputation.
In case of recruitment by promotion/Deputation/Transfer is to be made.	By Promotion From amongst the Executive Engineer, who possess Degree/AMIE qualification with a minimum 6 years experience as regular service. By Deputation From amongst the officials of the Punjab/Haryana State Government/Union Territory Chandigarh holding analogous post having 5 years regular service in the Cadre. The deputation period should be exceed 3 years.



4. The respondent, during the pendency of present petition, extended tenure of Mr. Inderjit Gulati who was holding charge of Superintending Engineer. It is apt to notice that Mr. Inderjit Gulati was on deputation and belongs to the State of Punjab. He has been repatriated to his parent department and petitioner is holding additional charge of Superintending Engineer.

5. Mr. Hemant Bassi, Advocate submits that State of Punjab has amended its rules whereby required experience has been substantially reduced. The Chandigarh Administration taking note of this decision of the State of Punjab has forwarded proposal to Competent Authority to make necessary amendments at par with State of Punjab.

6. The petitioner was appointed on the post of Executive Engineer w.e.f. 13.09.2019. As noted above, he was holding additional charge of Executive Engineer from 16.10.2017 to 30.07.2019.

7. As per Mr. Hemant Bassi, Advocate, the period during which petitioner was holding additional charge of Executive Engineer should be counted for the purpose of period prescribed in the regulations for the post of Superintending Engineer. As per applicable regulations, experience is required and it is irrelevant whether experience is in the form of *ad hoc*, temporary or additional charge. The respondent is misreading the relevant regulations and insisting that experience acquired while holding additional charge should not be considered.

8. Per contra, Mr. Amit Jhanji, Sr. Advocate and Mr. Sanjiv Ghai, Advocate submit that regulations are very much clear. As per regulations, experience of only 'Regular Service' can be considered. The expression 'Regular Service' would become surplus, if contention of Mr. Hemant Bassi is accepted. Experience of Executive Engineer while holding additional



charge cannot be equated with 'Regular Service'. The question of amendment of regulations, at this stage, has become irrelevant because Chandigarh Administration has adopted Central Civil Service Rules (for short 'CCS Rules') and Municipal Corporation is under process of implementing the same. Till CCS Rules are adopted by Municipal Corporation, Chandigarh, Punjab Civil Service Rules are applicable.

9. I have heard the arguments of both sides and with the able assistance of learned counsels have perused the record.

10. The petitioner is firstly challenging recommendation of Committee dated 13.04.2021 whereby Committee of Municipal Corporation, Chandigarh has proposed to reduce requisite experience for different posts. Neither Chandigarh Administration nor Municipal Corporation has taken conclusive decision. There is requirement of amendment of regulations governing the promotion. Unless and until regulations are amended, the petitioner cannot claim any benefit on the basis of recommendations.

11. This Court cannot ask respondent authorities to implement recommendations because in the business of Government many Committees are constituted and recommendations are made by Committees but it is up to Government to accept or reject recommendations. Law Commission of India time to time makes recommendations to Government of India, however, few are accepted and many rejected. Court cannot ask Government to accept recommendations of any Committee.

12. There is another aspect of the matter. Chandigarh Administration has accepted CCS Rules w.e.f. 01.04.2022. The counsel for respondents are pleading that Chandigarh Administration till date has not adopted CCS Rules, however, matter is under consideration. In such



circumstances, it would not be just and fair on the part of this Court to ask the respondent to adopt recommendations of any Committee. The petitioner has not assailed validity of Regulations in question, thus, the validity of any clause of Regulations cannot be tested by this Court.

12. The petitioner has further prayed that recommendations of Punjab Government read with communication dated 29.11.2019 of Chandigarh Administration should be implemented. The communication dated 29.11.2019 is an internal communication between Special Secretary Personnel and Administrative Secretaries of different departments. This Court as observed hereinabove cannot ask authorities to make amendment in Regulations which have been framed by Chandigarh Administration. It is for the Administration to carry out the amendments.

13. The petitioner at the time of filing of writ petition had not completed 6 years of ‘Regular Service’ as Executive Engineer. Even till date, he has not completed 6 years of service as Executive Engineer. He wants that his period of additional charge should be counted. He has not challenged 2012 Regulations and as per regulations, 6 years ‘Regular Service’ is mandatory. Current duty charge period can be counted for experience but not for regular service. Thus, his argument fails.

14. In the wake of above discussion and findings, the present petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

13.08.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No