



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

(Sr. No. 104)

**LPA No.1874 of 2024 (O&M)
Date of decision: 11.09.2024**

Haryana Power Generation Corporation Ltd. and another

..... Appellants

Versus

Balraj Singh Rangi

..... Respondent

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

Present : Mr. Puneet Jindal, Senior Advocate with
Ms. Malvi Aggarwal, Advocate for the appellants.

* * *

DEEPAK SIBAL, J. (Oral)

(1) On 26.09.1989, the respondent joined the Haryana Power Generation Corporation Ltd. (for short – the Corporation) as a Junior Engineer. On 14.01.1994, he was promoted as a Boiler Controller and on 22.10.2003 as an Assistant Engineer. On 15.11.2006, the respondent was further promoted as an Assistant Executive Engineer and while he served the Corporation on such post, in the year 2010, a raid was conducted by the Haryana Police which allegedly found shortage in supply of light diesel oil in the storage area under the respondent's control. Consequently, FIR No.316 dated 07.08.2010 under Sections 406, 407, 420, 467, 468, 471, 379, 411, 120-B IPC read with Sections 7/10 of the Essential Commodities Act, 1955, Sections 3/4 of the Petroleum Act, 1934 and Section 13(1)(c) of the Prevention of Corruption Act, 1988, was registered in which the respondent was nominated as an accused. On 03.09.2010, the Departmental Promotion Committee (for short - DPC) of the Corporation met to consider promotions of Executive Engineers and on its



recommendations, promotions to the post of Executive Engineers were in fact made. The respondent's case was deferred as disciplinary proceedings, after the lodging of the aforesaid FIR, were contemplated against him. On 08.09.2010, the respondent was arrested and resultantly, on 09.09.2010, he was suspended. Later, he was granted bail by this Court. On 31.05.2011, a charge-sheet was also served upon him by the Corporation.

(2) The respondent represented to the Corporation seeking promotion as Executive Engineer from the date his juniors had been promoted. Through an order dated 19.05.2014, the Corporation denied the respondent's claim for promotion on the ground that if he would be promoted it would send a wrong signal to the public at large. Against such order the respondent got served upon the Corporation a legal notice and thereafter, petitioned this Court through CWP No.445 of 2015.

(3) During the pendency of the respondent's aforesaid petition, on 15.07.2017, he was acquitted in the criminal case registered against him. The disciplinary proceedings then commenced against the respondent resulting in an order of punishment of stoppage of two annual increments with cumulative effect along with him to be downgraded by one step. The respondent filed an appeal to challenge his punishment and the appellate authority modified the punishment awarded to him to a warning.

(4) In the meanwhile, the afore referred writ petition filed by the respondent to challenge therein the proceedings of the DPC dated 03.09.2010 remained pending. The same was disposed of on 30.01.2020 with a direction to the Corporation to consider the respondent's claim for promotion.

(5) On 20.04.2020, the respondent was directed by the Corporation to serve as an Executive Engineer but on current duty charge basis. While he



served the Corporation in such capacity, through order dated 15.09.2020, the Corporation ordered the respondent's promotion as Executive Engineer with effect from 03.09.2010 *i.e.* the date when his juniors had been promoted as Executive Engineers. However, no arrears were granted. This led to the filing of another petition by the respondent before this Court through which he claimed arrears with effect from the date of his promotion as Executive Engineer. A learned Single Judge of this Court, after referring to the law laid down by the Supreme Court in ***Union of India Vs. Jankiraman (1991) 4 SCC 109, Ramesh Kumar Vs. Union of India and others (2015) 14 SCC 335*** and ***The Commissioner, Karnataka Housing Board Vs. C. Muddaiah (2007) 7 SCC 689***, allowed the respondent's petition. The Corporation was directed to pay to the respondent arrears from the date of his promotion as Executive Engineer. However, no interest was granted. The Corporation was further directed to comply with the judgment within 03 months. The said judgment is the subject matter of challenge through the instant intra court appeal.

(6) Learned senior counsel appearing for the appellant-Corporation has been heard.

(7) In its meeting held on 03.09.2010, the DPC, constituted by the Corporation, considered 08 Assistant Executive Engineers for promotion as Executive Engineers. The respondent was one of them. Out of the remaining 07, some of the Assistant Executive Engineers were junior to the respondent. The proceedings of the DPC dated 03.09.2010 are reproduced below for reference: -

"HARYANA POWER GENERATION CORPORATION LIMITED
An ISO:9001, ISO 14001 and OHSAS 18001 Company
C-7, Urja Bhawan, Sector 6, Panchkula - 134109.
Phone No. 0172-502344, Fax No. 0172-5022433

Office Order No. 416/HPG/GE-623

Dated : 03.09.2010



The suitability of S/Sh. Sukhbir Singh, Prem Kumar, Jasmer Singh, Kartar Singh Gill & Rakesh Gupta, Assistant Executive Engineers (Electrical) for their promotion to the post of Executive Engineers (Electrical) has been approved by Managing Director, HPGCL.

Accordingly, the above Assistant Executive Engineers are hereby promoted to the post of Executive Engineer with immediate effect, subject to the following notes: -

- 1. The promotion of above Assistant Executive Engineers to the post of Executive Engineers has been made subject to the condition that they will have no claim of their seniority over those who are otherwise senior to them and whose cases could not be finalized due to pending disciplinary proceedings or any other reasons.*
- 2. The above Assistant Executive Engineers will remain on probation for a period of one year from the date of assumption of charge as Executive Engineers. The respective controlling officers will send the work and conduct report of these officers after completion of one year.*
- 3. The above Assistant Executive Engineers would have continued to officiate as AEE but for their promotion to the rank of Executive Engineers.*
- 4. The promotion of above Assistant Executive Engineers is without prejudice to the pending writ petition/civil suit, if any.*
- 5. The name of Sh. Joginder Singh, AEE has been deferred for promotion as Executive Engineer due to pending disciplinary proceedings against him. However, one post of Executive Engineer has been kept vacant for him.*
- 6. The name of Sh. Balraj Singh Rangi, AEE has been deferred for promotion as Executive Engineer due to contemplated disciplinary proceedings against him. However, one post of Executive Engineer has been kept vacant for him.*

This issues with the approval of Managing Director, HPGCL.

*s/d
Dy. Secy./Estt. (G)
For Chief Engineer/Admn.,
HPGCL, Panchkula”*

(8) Thus, the DPC decided to defer the respondent's case for promotion on the ground that disciplinary proceedings were contemplated against him and one post of Executive Engineer was kept vacant for him. Other officers, including the respondent's juniors, were recommended and later promoted as Executive Engineers with effect from 03.09.2010.

(9) Undisputedly, as on 03.09.2010 no charge-sheet had been served by the Corporation upon the respondent. On 03.09.2010 no charges in the aforesaid FIR, in which the respondent was an accused, had also been framed.



Therefore, as on 03.09.2010, he could have not been ignored for promotion as an Executive Engineer.

(10) Even otherwise, in the criminal proceedings lodged against the respondent he was acquitted and the disciplinary proceedings initiated against him culminated only in the issuance of an advisory to him to be careful in future. Through its order dated 15.09.2020, the Corporation also acknowledged the respondent's claim for promotion and promoted him as Executive Engineer w.e.f. 03.09.2010.

(11) In the light of the above, the impugned judgment through which the respondent has been held entitled to the grant of arrears from 03.09.2010 *i.e.* the date when his juniors were promoted, warrants no interference.

(12) Dismissed.

(13) All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

11.09.2024
sunil yadav

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No