

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

LPA-897-2022(O&M)
Date of decision: 01.02.2024

Chief Administrator, Haryana Shehri Vikas Pradhikaran
(HSVP)

... Appellant

Versus

Naurty Ram and another

... Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY

Present: Mr. Prateek Mahajan and
Mr. Mayank Vashishth, Advocates for the appellant

Mr.Ravinder Malik, Advocate for respondent No.1

AMAN CHAUDHARY, J.

1. The instant appeal is against the judgment dated 29.11.2021 passed by the learned Single Judge, partly allowing the writ petition filed by the petitioner-respondent.
2. Having heard the learned counsel for the parties, we are unable to record our concurrence with the submission raised on behalf of the appellant.
3. The issue raised in the writ petition was of counting the period of current duty charge of the post of Sub Divisional Engineer (Horticulture) as experience for promotion to the post of Executive Engineer. The learned Single Judge allowed the writ petition taking into consideration that the petitioner-respondent had held the charge of said post for seven years on current duty basis before having been regularly promoted on 01.08.2017. The experience as per Rules for consideration for further promotion to the post of Executive Engineer was eight years. It was undisputed that his work and conduct during the

said period was satisfactory. The prayer made in the writ petition for grant of pay of the higher post while he worked on current duty charge basis was given up, qua which the writ petition was dismissed. However, by relying on the judgment of the Division Bench in **Chief Engineer UT vs. Ram Sarup Walia and others** CWP-77-2012, decided on 06.01.2012, the petition was allowed directing consideration of the petitioner for promotion by counting the period of current duty charge held by him as Sub Divisional Engineer (Horticulture) by passing a speaking order. The issue is no longer *res integra* as it was held by Division Bench in judgment dated 16.05.1996, CWP-2948-1996, titled as **DP Mehta (Dr.) vs. PGI and its Governing Body**, wherein the experience gained while discharging additional duties of Deputy Medical Superintendent, to be considered for promotion to the post of Joint Medical Superintendent. Similarly in CWP-11007-2006, **Jaskaran Singh vs. State of Punjab and another**, decided on 06.12.2007, the Division Bench of this Court had held that the petitioner was eligible for promotion on the basis of his 'experience' earned by him while working as Executive Engineer, which was not while in 'regular service'. Likewise, in **State of Punjab vs. Anil Sharma and another**, LPA-539-2021, dated 25.08.2021, the experience gained while working on current duty charge was held to be treated as part of experience for promotion to the next higher post of Conservator of Soils.

4. In **Dr. Asim Kumar Bose vs. Union of India**, AIR 1983 SC 509, wherein Hon'ble the Supreme Court had observed that, "It is necessary to emphasis that the recruitment rules nowhere provide that the teaching experience gained by a specialist in a teaching hospital in the capacity of an Associate Professor (ex-officio) shall not count towards the requisite teaching experience . There is no provision made in the Rules that the teaching experience must be

gained on a regular appointment. There is hardly any difference so far as teaching experience is concerned whether it is acquired on regular appointment or as Specialist in a teaching hospital with the exofficio designation. As the statutory rules do not provide that the teaching experience gained in a ex-officio capacity shall not count towards the requisite teaching experience , the teaching experience gained by the appellant while holding the post of Radiologist-cum-Associate Professor of Radiology (ex-officio) in the Irwin Hospital cannot be ignored in determining his eligibility for appointment as Professor of Radiology in Maulana Azad Medical College.” Equally specious is the submission of the appellant requiring an experience gained on regular service, for promotion to the post of Executive Engineer (Horticulture), the same having not been envisaged by Rule 10 of Haryana Urban Development Authority Services Regulation, 1989, which provided an experience of 8 years as Sub Divisional Officer (Horticulture).

5. On a conspectus evaluation of the matter and the enunciation of law referred to hereinabove, we find no merit in the present appeal, thus the same is hereby dismissed.

6. Pending applications, if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

01.02.2024
gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO