



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

211

**CWP-27892-2013 (O&M)
Date of Decision:05.11.2024**

Satish Sharma and others

.....Petitioners

Versus

Haryana Power Generation Corporation Limited and others

.....Respondents

2.

CWP-150-2016 (O&M)

Raj Kumar and another

.....Petitioners

Versus

Haryana Power Generation Corporation Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ashwani Talwar, Advocate for the petitioners
(in both the petitions).

Mr. P.S. Poonia, Advocate
for respondent in CWP-27892-2013.

Mr. Santosh Kumar Maurya, Advocate for
Mr. Gagandeep Singh Wasu, Advocate
for the respondents in CWP-150-2016.

JASGURPREET SINGH PURI J.(Oral)



1. Both the petitions are taken up together for final disposal with the consent of learned counsel for the parties as the facts are common and issues are inter-related.

2. CWP-27892-2013 titled as ***Satish Sharma and others vs. Haryana Power Generation Corporation Limited and others*** is taken up first for consideration, since the second petition bearing CWP No.150-2016 will be dependant upon the outcome of this petition.

3. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the orders dated 12.07.2013 (Annexure P-17) passed in pursuance of the directions dated 04.12.2012 (Annexure P-16) passed in CWP-23947-2012 vide which the legal notices (Annexure P-14) was ordered to be decided in accordance with law with a further prayer to consider the petitioners for promotion to the rank of Junior Engineer from the date of passing their AMIE/BE examination.

4. Learned counsel for the petitioners submitted that the present petition has been filed on the ground that similarly situated persons, who were also working below the post of Junior Engineer, were promoted to the post of Junior Engineer after filing a writ petition before this Court as the same was allowed by a Coordinate Bench of this Court, as per the order in CWP No. 13541 of 1995 (Annexure P-10). He submitted that earlier by virtue of the policy of the respondents vide Annexure P-7 dated 22.04.1980, the Board had decided that on passing of the A.M.I.E. examination, out of turn promotion will be given to the employees. However, this policy (Annexure P-7) was withdrawn vide Annexure P-8 dated 12.02.1981. He submitted that petitioners



are entitled for promotion by virtue of the later policy of the Board vide Annexure P-2 wherein as per Clause 1.5.1, 60% posts of the Junior Engineers (Field) can be filled up by those employees who are already in service of the Board and possessing the requisite qualifications but are working on lower posts and they will be eligible for direct recruitment. He further submitted that the petitioners are also eligible for being promoted on the post of Junior Engineers through direct recruitment but they have not been considered for promotion and the present petitioners are also at parity with the petitioners in the case of ***Ram Niwas and others Vs. Haryana State Electricity Board & others*** bearing *CWP No.13541 of 1995 (Annexure P-10)* who were granted out of turn promotions. He also submitted that for many years, the petitioners have not been promoted and have experienced stagnation in their careers.

5. On the other hand, learned counsel(s) appearing on behalf of respondents submitted that the petitioners cannot seek parity with the aforesaid Ram Niwas and others as they were promoted and later reverted but they had challenged the order of reversion and the writ petition was allowed vide Annexure P-10. He submitted that the present petitioners cannot claim issuance of any writ in the nature of mandamus directing their promotion on the basis of Annexure P-7 dated 22.04.1980 because the same was already withdrawn on 12.02.1981 vide Annexure P-8 and, therefore, no direction can be issued in violation of any policy of the Government. He submitted that so far as Annexure P-2 on which learned counsel for the petitioners has relied upon is concerned, it only provides that employees like the petitioners are eligible for promotion to the post of Junior Engineer (Field) under the quota of



direct recruitment but that does not mean that petitioners have any right of promotion but at the most the petitioners can be considered for promotion in case any vacancy is available or any junior is promoted. He submitted that he has categorical instructions to state that no person junior to the petitioners having the same qualifications has been promoted or given the benefit of 1988 Policy (Annexure P-2).

6. After hearing learned counsels for the parties, this Court is of the considered view that in view of the statement made by learned counsel for the respondents-Board that no person junior to the petitioners has been promoted by giving the benefit of 1988 Policy (Annexure P-2), the petitioners cannot seek a writ in the nature of mandamus directing the promotion of the petitioners. However, the petitioners can always seek directions with regard to his right for being considered for promotion in accordance with law.

7. Since no junior to the petitioners has been promoted, no such direction can be given to the respondents to promote the petitioners. It is made clear that whenever the posts are available for promotion then the petitioners will be considered in accordance with law and in light of the aforesaid policy of the year 1988 (Annexure P-2).

8. In addition to the above, in case the petitioners make any representation to the concerned authority for seeking right of being considered for promotion on the ground that the petitioners have already served the respondent-Board for the last large number of years without being promoted then the same shall be considered and decided by the competent authority in accordance with law by passing a speaking order.



9. Disposed of in the aforesaid terms.

(JASGURPREET SINGH PURI)
JUDGE

05.11.2024
shweta

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No