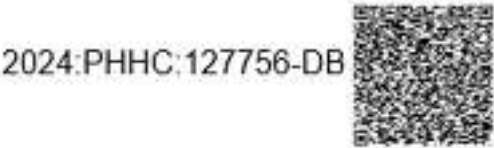


CWP-22729-2018



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

**CWP-22729-2018**  
**Date of Decision: September 24, 2024**

**Gurmail Singh** ..... Petitioner

**Versus**

**Union of India and others** ..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**  
**HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:     Mr. Arkash Mani Garg, Advocate for the petitioner.

                 Mr. Vipul Aggarwal, Advocate for respondents No. 1 and 2/ UOI.

                 \*\*\*\*

**LISA GILL, J.**

1.             Prayer in this writ petition is for setting aside order dated 07.08.2018 passed by learned Central Administrative Tribunal, Chandigarh Bench whereby OA No. 060/00622/2017 filed by petitioner (applicant before learned Tribunal) was dismissed. It is further prayed that Rule 204.9 of Indian Railway Establishment Manual (for short – ‘IRE Manual’) be set aside. Petitioner also seeks direction to official respondents to promote him to the post of AXEN and grant him all benefits with retrospective effect with requisite interest.
2.             Brief facts necessary for adjudication of the matter are that petitioner filed abovesaid OA for setting aside notification dated 29.05.2017 whereby respondent No. 3 was selected and appointed to the post of AXEN

**CWP-22729-2018**

result dated 02.05.2017 of written examination and 25.05.2017 qua viva-voce. Petitioner also sought appointment to the post in question with all consequential benefits, claiming to be more meritorious than respondent No. 3. Petitioner claimed to be working as Senior Section Engineer and eligible for promotion to the post of AXEN.

3. Shorn of unnecessary details, it is to be noted that both petitioner as well as respondent No. 3 participated in selection process. There was earlier round of litigation before learned Tribunal in OA No. 060/00622/2017 as well as before this High Court in CWP10673-2017. Notification dated 02.05.2017 was ultimately issued, with petitioner and respondent No. 3 having qualified their written examination and were called for viva-voce. Vide order dated 29.05.2017, respondent No. 3 was declared selected being found suitable to be placed on the panel of AXEN (Group B) against 70% quota in Civil Engineering Department. OA-060/00907/2014 filed by respondent No. 3 was allowed. It is the case of petitioner that he is more meritorious than respondent No. 3 having secured more marks than respondent No. 3, while case set up by respondents is that selection is based upon master circular issued by the Ministry of Railway for promotion from Group C to Group B. Written examination and viva-voce are only qualifying exams with emphasis primarily on seniority. As ACR gradings of both the petitioner and respondent No. 3 were the same, respondent No. 3 was given appointment to the post in question being senior. Learned Tribunal after examining the factual matrix and with reference to relevant Rules/Regulations, found no merit in OA, which was accordingly dismissed. Aggrieved therefrom present writ petition has been filed.

4. Learned counsel for petitioner argues that learned Tribunal has grossly erred in dismissing the OA filed by petitioner without appreciating the

**CWP-22729-2018**

relevant facts. Admittedly, petitioner had secured more marks in the written examination than respondent No. 3. Once it is selection to the post in question, there is no basis for following seniority. It is further submitted that in the present writ petition, petitioner also challenges the validity of Rule 204.9 of IRE Manual. It is, thus, prayed that this petition be allowed.

5. Learned counsel for respondents/UOI opposes the writ petition while submitting that learned Tribunal has correctly passed the impugned order in tune with applicable Regulations. Further, petitioner is not entitled to now turn around to challenge Rule 204.9 of IRE Manual after being unsuccessful in the process of selection. It is stated that only way for the respondent to breach seniority was in case he had secured more than 80% marks and achieved outstanding grading in terms of Rule 204.9 of IRE Manual. It is, thus, prayed that this petition be dismissed.

6. We have heard learned counsel for parties and have perused the file with their able assistance.

7. Factual aspect, as narrated above, is not in dispute. At the outset, it is to be noted that selection to Group B posts is governed by IRE Regulations. Regulation 201.1, 204.1, 204.8 as well as 204.9 have been reproduced in para 15 of the impugned order passed by learned Tribunal. Rules 203.5 and 204.9 are again reproduced as hereunder:-

"203.5 - Where employees from different streams are eligible to appear for the selection, their Integrated seniority for the purpose of selection should be determined on the basis of total length of non fortuitous service rendered in Grade 6500 10500 and above.

204.9 The panel should consist of employees who had qualified in the selection corresponding to the number of vacancies for which the selection was held. Employees securing gradation 'Outstanding' will be placed on top followed by those securing the gradation, 'good' inter se seniority within each group being maintained."

**CWP-22729-2018**

8. It is clearly provided that those candidates, who secured 80% marks and above shall be graded as outstanding. Petitioner admittedly did not secure said marks, therefore, he was not reflected in the list of outstanding candidates. Selection of respondent No. 3 was, thus, carried out in accordance with applicable provisions.

9. In all fairness, we take note of the argument that challenge has been laid to Rule 204.9 of IRE Manual in the present writ petition. However, there is no merit in the arguments so raised in this respect for the simple reason that it is not open to the candidate who has participated in the selection process to turn around and challenge the terms and conditions at a subsequent stage after being unsuccessful therein. No such exceptional circumstance has been pointed out which calls for interference at this stage.

10. Learned counsel for petitioner is unable to point out any infirmity or irregularity in impugned order dated 07.08.2018 passed by learned Central Administrative Tribunal, Chandigarh Bench which calls for interference.

11. No other argument has been raised.

12. Writ petition is, accordingly, dismissed.

**(LISA GILL)**  
**JUDGE**

**(SUKHVINDER KAUR)**  
**JUDGE**

**September 24, 2024**  
Rts

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