

S/L.13.
May 16, 2025.
KAUSHIK.

WPA No. 8856 of 2023

Bijoy Kumar Lal
Vs.
The Durgapur Projects Limited and Others

Mr. Ayan Banerjee,
Mrs. Debasree Dhamali,
Ms. Riya Ghosh
Mr. A. Chowdhury

... for the petitioner.

Mr. Sujit Sankar Koley

...for the DPL.

The grievance of the petitioner is directed against the refusal of the respondent authorities to extend the second promotional benefit to the petitioner on completion of eight years of service from the first promotional post.

Briefly, the petitioner was appointed to the post of Tech. Gr. III Elect. Div. (C&P). Subsequently, on 8 October 2002, the petitioner was posted to the rank of Charge-man (Electrical). Thereafter, the petitioner upon acquiring a Diploma in Electrical Engineering on 14 September, 2004 was promoted to the rank of a junior Manager on 16 February, 2007. Subsequently, in the year 2010, the respondent authorities introduced a fresh policy by replacing the existing Assured Promotion Scheme (APS) with the Career Progression Scheme (CPS). In

terms of the new scheme i.e. CPS, the petitioner became entitled for two promotions after completion of satisfactory service of 16 years from the first entry. In this connection, the relevant clause of the CPS is as follows:

"b. Every employee of DPL first appointed on a regular post to any of the post in revised scale Nos. 1 to 9 (given in annexure-III) or to its un-revised analogous scale shall be Howed to move to the basic scale attached to the first promotional post as applicable to him on completion of 8 years of continuous and satisfactory service in the post to witich he was first appointed and to move to the basic scale of the second promotional post as applicable to him on completion of further 8 years of continuous and satisfactory service in the scale of pay of the first promotional post as applicable to him on completion of continuous and satisfactory service of yet another 9 years in the scale of pay of the second promotional post. The structure of scale at all levels under CPS has been elaborated in annexure-II of this order."

d. An employee who has already moved to the first or second promotional post as applicable to him either on getting promotion prior to issuance of this order shall be deemed to have got the first or Second promotion respectively. He shall be entitled to move to the next promotional post on completion of continuous and satisfactory service of sixteen years or twenty five years respectively reckoned from the first entry in DPL's regular service, as well as three years continuous and satisfactory service in the first promotional post or second promotional post, as the case may be, reckoned from the date of promotion to such a post, both conditions being fulfilled. However, an employee first appointed to any of the posts in revised scale No. 10 or to its unrevised analogue shall not be entitled to move to the third promotional post under this scheme."

In this background, it is contended by the petitioner that since, the petitioner was appointed

as Chargeman on 8 October, 2002 (after completion of 16 years of his service from his first entry), he was entitled to be promoted as on 8th October, 2018. This has not been adhered to and the respondents have wrongfully calculated his promotion from 14 September, 2020. This is untenable and contrary to the applicable Regulations. Accordingly, the petitioner now claims the second promotional benefit w.e.f. 8 October, 2018 upon completion of 16 years of service from his first post alongwith all consequential benefits. In support of such contention, the petitioner relies on the decisions reported in (*T. Valsan [Dead]] Vs. K. Kanagaraj & Ors.*) (2023) 7 SCC 614 and (*Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra & Ors.*) (1990) 2 SCC 715.

On behalf of the respondent, it is contended that the petitioner's appointment as charge-man (E) could only be considered from the date on which he acquired the Certificate i.e. 14 September, 2004. As such, the promotion of the petitioner can only be considered on the date of receipt of the certificate and not on the petitioner's first entry to the subject post. In support of such contention, the petitioner relies on the decision reported in (*D. Stephen Joseph Vs. Union of India & Ors.*) (1997) 4 SCC 753.

Indisputably, the writ petitioner was inducted to the post of Charge-man (E) in 2003 after obtaining requisite qualification. Thereafter, the petitioner got his first promotion to the post of Junior Manager in 2007. Subsequently, in 2010, the respondent introduced a fresh policy by replacing APC by CPS. As per the new policy, the petitioner was entitled to a second promotion after completion of 16 years of service from the first date of entry. Accordingly, in view of the fact the petitioner had been appointed as Charge-man (E) on 8 October, 2002 after completion of 16 years of service, he was entitled to get a second promotion. However, he got his promotion from 14 September, 2020. This is not in conformity with the applicable Scheme and in contravention of the CPS applicable to the petitioner. It appears from the records that the petitioner had obtained the requisite qualification and had undergone the selection process as well as qualified in the written test and interview and thereafter was selected to the post of Charge-man. There is nothing in the appointment letter to demonstrate that the promotion of the petitioner would be calculated from the date of confirmation. The defence of the respondent authorities are unsubstantiated.

The letter of confirmation reflects that there is nothing in the said letter which would relate the promotion of the petitioner to the date of qualification. In absence of any statutory provision or Rule, once the petitioner was appointed to the post according to the rules his seniority had to be counted on the date of appointment. (2018 SCC OnLine SC 3836. *T. Valsan v. K. Kanagaraj and Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra & Ors.*) (1990) 2 SCC 715).

Qualification is only a requirement to hold a particular post and is not to be the basis for promotion. There is nothing also in the appointment letter or the CPS which inter-links the promotion to the date when the qualification certificate was obtained. In terms of CPS, the period of 16 years was completed on 7 October, 2018 i.e. from the date of first entry which was 8 October, 2002.

It is well settled that upon an incumbent being appointed according to the Rules, the seniority has to be counted from the date of his appointment and not according to the date of confirmation.

In terms of the above statutory provision and Rules, once an incumbent is appointed to the post according to the Rules, his seniority has to

be counted from the date of the appointment. The entire argument of the date of qualification certificate being the determining factor is without basis.

In such view of the matter, the writ petition stands allowed. There shall be an order in the nature of mandamus commanding the respondent to ensure the second promotional benefits w.e.f. 8th October, 2018 in terms of CPS along with all consequential benefits attached to such promotional post forthwith.

With the above directions, WPA 8856 of 2023 stands allowed.

(Ravi Krishan Kapur, J.)