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

204-1

Date of Decision : 18.08.2025

(i) CWP-1745-2001 (O&M)

Mahinder Pal Galhotra

... Petitioner

Versus

**Punjab State Electricity Board, Patiala through its Secretary and
others**

... Respondents

(ii) CWP-12630-2000 (O&M)

R.K. Salwan

... Petitioner

Versus

**Punjab State Electricity Board, Patiala through its Secretary and
others**

... Respondents

(iii) CWP-13620-2000 (O&M)

PSEB Engineers' Association through its Secretary and others

... Petitioners

Versus

**Punjab State Electricity Board, Patiala through its Secretary and
others**

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

**Present: Mr. Bikramjit Singh Patwalia, Advocate and
Mr. Abhishek Masih, Advocate
for the petitioners in CWP 1745-2001 and CWP 12630-2000.**

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Mr. Sandeep Kumar, Advocate
Mr. Arjun Pratap Atma Ram, Advocate
for the petitioners in **CWP-13620-2000** and
for respondents No. 3 to 13 in **CWP-12630-2000**.

Mr. Ankit Kumar, Advocate
For Respondents no. 1 and 2 through video conferencing.

HARPREET SINGH BRAR J. (ORAL)

1. The above referred three writ petitions are being decided by this common order as the similar question of law is involved therein. Further, the only difference between the petitioner in **CWP-12630-2000** and the petitioner in **CWP-1745-2001** is that the former is claiming seniority as Chief Engineer equivalent to Superintending Engineer w.e.f. 01.04.1987, and the latter is claiming seniority as Executive Engineer w.e.f. 10.06.1985. For the sake of brevity, the facts are being extracted from **CWP-1745-2001**.

2. The instant writ petition has been filed seeking a direction to the respondent- Punjab State Electricity Board (hereinafter referred to as 'Board') to fix the seniority of the petitioner as Executive Engineer w.e.f. 10.06.1985 with all consequential benefits; and further quashing of the orders dated 14.12.2000 and 16.01.2001 (Annexure P-16-A & P-19) to the extent that respondent No.2 & 3, who were juniors to the petitioner have already been promoted to the post of Superintending Engineer.

CONTENTIONS

3. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner joined in the erstwhile Municipal Corporation (Electricity Wing), Amritsar as Assistant Engineer on 11.06.1975, thereafter he was promoted

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as Assistant Engineer-I on 13.09.1979 (Annexure P-1). There was no other suitable candidate, the petitioner was promoted to the post of Executive Engineer on 04.08.1982 with a condition that the petitioner will be entitled to his seniority and pay scale, on completion of ten years of service. Accordingly, the petitioner was granted the seniority and pay scale as Executive Engineer w.e.f 10.06.1985 on 17.08.1985 (Annexure P-3). Earlier there was an arrangement between the Municipal Corporation and the respondent-Board with regard to the transmission and management of the electricity within the city of Amritsar. The license granted to the Municipal Corporation was terminated in the year 1985 as is evident from Annexure P-5. The employees, who were earlier working in the Municipal Corporation, Amritsar were absorbed in the respondent-Board and their integration in the Board was done on 13.10.1995. After taking over the electricity supply system of the Municipal Corporation, Amritsar, the merger of the staff in the Corporation took place vide Annexure P-7. Further, the past service rendered by the employees of the Municipal Corporation along with their pay protection was maintained and the integration was made effective from 01.04.1995. It was further provided that these employees will be eligible for promotion. Accordingly, the options were sought from the petitioner(s) and his counterparts earlier working in the Municipal Corporation, the petitioner submitted his option for his absorption in the Board. Thereafter, on 24.04.1996 terms and conditions for absorption of the erstwhile Electrical Wing, Municipal Corporation, Amritsar were laid down and the benefit of pay protection and the past service of the employees, were granted and it

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has been decided that all such employees will be eligible for pay scale, allowances as admissible to the Board employees in their respective cadres. Further, it was also decided that they will be eligible for being promoted etc. on the basis of previous seniority.

4. Learned counsel for the petitioner refers to Annexure P-12 and submits that the absorption order passed in the case of the petitioner clearly indicates that his date of joining is reflected as 11.06.1975 and his date of promotion has been mentioned as 11.06.1985. The petitioner was placed in the provisional seniority list. Thereafter, one Ved Parkash Ohri and Rudra Dutt Rishi were promoted to the post of Superintending Engineer. Ved Parkash Ohri was appointed on 20.02.1985, whereas Rudra Dutt Rishi was appointed on 12.07.1985. The petitioner is entitled to the promotion from the date of the promotion of Rudra Dutt Rishi, who was junior to the petitioner, and petitioner was admittedly appointed as Executive Engineer on 11.06.1985 and the same benefit was granted in the absorption order (Annexure P-9). Learned counsel for the petitioner(s) further submits that the petitioner(s) approached the respondent-Board with regard to the fixation of his seniority and promotion w.e.f. the date from which Rudra Dutt Rishi, who is junior to the petitioner, had been given promotion. The case of the petitioner was never considered or decided in terms of his seniority from his date of promotion as Executive Engineer on 10.06.1985.

5. Mr. Ankit Kumar, learned counsel representing respondents No. 1 & 2 appears through Video Conferencing and submits that the petitioner cannot render any assistance as he is not in possession of the

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paper-book and the reply filed on behalf of the respondent-Board. However, the perusal of the written statement filed on behalf of respondent No.1 indicates that the only tentative seniority list was circulated by the respondent-Board on 01.02.2001 and further finalization of the seniority list, including the petitioner's seniority, on merits is under consideration by the competent authority. As such, the petitioner should await the decision of the respondent-Board on his seniority and the writ petition filed by the petitioner on this ground is premature in nature.

OBSERVATION and ANALYSIS

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner has superannuated and petitioner has not been granted any benefit for the promotional post. The stand taken by the petitioner has not been controverted by the respondent-Board in the written statement and only explanation forthcoming is that only the tentative seniority list had been circulated and the case of the petitioner is under active consideration. There is specific ground taken by the petitioner that Rudra Dutt Rishi, who was promoted as Executive Engineer in the month of July, 1985, was promoted as Superintending Engineer on 14.12.2000 vide Annexure P-16A. The petitioner was promoted to the post of Executive Engineer on 11.06.1985, whereas Rudra Dutt Rishi was promoted to the post of Executive Engineer on 12.07.1985. Thus, the petitioner objects to the promotion of Rudra Dutt Rishi, who is admittedly junior to the petitioner, to the post of Superintending Engineer on 14.12.2000.

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7. Promotion is considered a privilege or benefit granted on eligibility and merit. The Hon'ble Supreme Court has consistently held that there is no fundamental right to promotion itself. However, once an employee becomes eligible for promotion, the right to be fairly and transparently considered for promotion is a fundamental right under Articles 14 and 16(1) of the Indian Constitution.

8. A Constitution Bench of the Hon'ble Supreme Court in ***Ajit Singh v. State of Punjab, (1999) 7 SCC 209***, laying emphasis on Article 14 and Article 16(1) of the Constitution of India held that if a person who satisfies the eligibility and the criteria for promotion but still is not considered for promotion, then there will be clear violation of his/her's fundamental right. Justice Jagannadha Rao,. speaking for the bench observed the same as follows in paragraphs 21, 22 and 27:

“Articles 14 and 16(1): is right to be considered for promotion a fundamental right.

22. Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the "State shall not deny to any person equality before the law or the equal protection of the laws". Article 16(1) issues a positive command that "there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State". It has been held repeatedly by this Court that clause (1) of Article 16 is a facet of Article 14 and that it takes its roots from Article 14. The said clause particularises the generality in Article 14 and identifies, in a constitutional sense "equality of opportunity in matters of employment and appointment to any office under the State. The word "employment" being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment. Article 16(1) provides to every employee otherwise eligible for promotion or who

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comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be "considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be "considered" for promotion, which is his personal right.

"Promotion based on equal opportunity and seniority attached to such promotion are facets of fundamental right under Article 16(1)

xxxx xxxx xxxx xxxx xxxx

27. In our opinion, the above view expressed in Ashok Kumar Gupta and followed in Jagdish Lal and other cases, if it is intended to lay down that the right guarantee to employees for being "considered" for promotion according to relevant rules of recruitment by promotion (i.e. whether on the basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be "considered" for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta right from 1950."

9. Further a Two-Judge Bench of the Hon'ble Supreme Court in **Delhi Jal Board vs. Mahinder Singh, 2000 (7) SCC 210** speaking through Justice M. Jagannadha Rao made the following observation.

"5.The right to be considered by the Departmental Promotion Committee is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is in the zone of consideration. *The sealed cover procedure permits the question of his promotion to be kept in abeyance till the result of any pending disciplinary inquiry. But the findings of the Disciplinary Enquiry exonerating the officer would have to be given effect to as they obviously relate back to the date on which the charges are framed. If the disciplinary inquiry ended in his favour, it is as if the officer had not been subjected to any Disciplinary*

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Enquiry. The sealed cover procedure was envisaged under the rules to give benefit of any assessment made by the Departmental Promotion Committee in favour of such an officer, if he had been found fit for promotion and if he was later exonerated in the disciplinary inquiry which was pending at the time when the DPC met. The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the sealed cover was opened to give effect to it, another departmental enquiry was started by the department, would not, in our view, come in the way of giving him the benefit of the assessment by the first Departmental Promotion Committee in his favour in the anterior selection. There is, therefore, no question of referring the matter to a larger Bench.” (emphasis added)

Reliance in this regard may also be placed on the judgments of Hon’ble Supreme Court in ***Ajay Kumar Shukla And Others vs Arvind Rai And Others 2022(12) SCC 579, Bihar electricity Board and Others vs. Dharamdeo Das 2024 INSC 549***, and **Major General H.M. Singh, VSM v. UOI and Another, (2014) 3 SCC 670**, where the Hon’ble Apex Court has consistently held that “It is a fundamental right of an eligible employee to be considered for promotion.”

10. While there is no inherent right to promotion itself, every employee “who meets the prescribed eligibility criteria” and “falls within the applicable zone of consideration” has a right to be considered for promotion. If these conditions are met, the employee's fundamental right to be considered is activated.

CONCLUSION

11. In view of the foregoing discussion, the present petitions are allowed. As nothing adverse against the petitioners has been brought on

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record, notional seniority and promotion be granted to the petitioners with all consequential benefits from the date their juniors were promoted. Accordingly, their pension be refixed within 3 months.

12. Photocopy of this order be placed on the files of the connected cases.

**(HARPREET SINGH BRAR)
JUDGE**

18.08.2025

Satyawan

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