

LPA-498-2018 (O&M)

2025:PHHC:066079-DB



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

LPA-498-2018 (O&M)

Date of decision: 03.05.2025

**PUNJAB STATE AGRICULTURAL MARKETING BOARD, AND
ANOTHER**

..... Appellant(s)

Versus

JASWINDER PAL SINGH AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Vaibhav Sharma, Advocate
counsel for appellants.

Mr. Dhiraj Chawla, Advocate
for respondents.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 11.12.2017, passed by learned Single Bench whereby CWP-20000-2016, filed by respondents/writ petitioners has been allowed.

2. Respondents/writ petitioners filed the above said writ petition for setting aside order dated 15.06.2015 (attached as Annexure P-8 with the writ petition) whereby present appellants had rejected their prayer for release of arrears of salary from 23.05.2001 till 28.12.2006, i.e. the period wherein writ petitioners had discharged the work and responsibility of the higher post of Junior Engineer on Current Duty Charge basis. It was pleaded that writ petitioners were appointed as Supervisors with the Punjab Mandi Board on different dates between 1984 to 1989. Writ petitioners were given current duty charge of the post of

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Junior Engineer vide order dated 23.05.2001. Thereafter, vide order dated 28.12.2006 (attached as Annexure P-4 with the writ petition), writ petitioners were afforded regular promotion to the post of Junior Engineer. It was stipulated therein that writ petitioners would not be given any extra financial benefit for the officiating current duty charge and that they would work in their own pay scale. After a number of years, CWP-4323-2015 was filed by writ petitioners claiming salary for the post of junior Engineer for the period they held current duty charge of said post. This writ petition was disposed of vide order dated 12.03.2015, directing present appellants to take a decision on the representation submitted by writ petitioners. Claim set up by writ petitioners was rejected vide impugned communication dated 15.06.2015, leading to filing of CWP-20000-2016. Said writ petition was allowed by learned Single Bench while referring to judgment of Hon'ble the Supreme Court in *Smt. P.Grover Vs. State of Haryana and another*, **AIR 1983 SC 1060** and *Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma*, **1998(3) SCT 90**. Aggrieved therefrom present appeal was filed. Notice of motion was issued in this appeal on 17.04.2018, with operation of impugned order dated 11.12.2017 being stayed.

3. Learned counsel for appellants vehemently argues that learned Single Bench has incorrectly ignored the aspect of colossal delay and laches on the part of writ petitioners in raising their claim. Order dated 23.05.2001 whereby they were given current duty charge of the post of Junior Engineer with the condition that they would not be entitled to any extra financial benefits, was never ever challenged by them. Even as per the case of writ petitioners themselves, it is only a few of writ petitioners, who represented in this regard before the authorities in December, 2012 i.e. six years after they were even afforded regular promotion to the post of Junior Engineer. It was further argued that writ petitioners in the year

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2001 were in fact not even eligible for regular promotion to the post of Junior Engineer in terms of the Punjab State Agricultural Marketing Board, (Class III) Service Rules, 1989 (hereinafter referred to 1989 Rules). It is only with amendment in the said Rules vide notification dated 13.11.2006 that writ petitioners became eligible for promotion. As per amendment, post of Junior Engineer was now to be filled by way of direct recruitment to the extent of 75% and 25% by promotion, out of which 17.5% were to be promoted from amongst Surveyors and in case Surveyor was not eligible then from amongst Supervisors. Reference was made to the 1989 Rules in respect to recruitment to post of Junior Engineer as they stood before amendment, which reads as under:-

Sr. No .	Designation of the post	Method of recruitment	By Direct appointment	By promotion	By transfer on deputation
1	2	3	4	5	6
	Junior Engineer (Civil) Junior Engineer (Public Health)	[(i)Ninety per cent by direct appointment, (ii) Ten per cent by promotion Provided that if no suitable person is available for appointment to the Service by promotion, then such a post shall be filled in by transfer on deputation and the vacancy so filled in shall be counted towards the quota fixed for appointment by promotion]	Should possess Diploma in Civil Engineering of a recognized Institute	(a) Two and a half/percent from amongst the Work Mistries working in the Board or Committees who have an experience of working as such for a minimum period of eight years and who have passed the National Certificate (Theoretical Course) of Sectional Officers from a recognized Institute; and (b) Two and a half per cent from amongst the Work Mistries working in the Board or Committees who have an experience of working as such for a minimum period of fifteen years. (c) Five per cent from amongst those Draftsmen (Civil), Tracers working in the Board who possess Diploma in Civil Engineering from a	From amongst the Junior Engineers (Civil) working in a Department of the Government of Punjab or in a State Government undertaking who have an experience of working as such for a minimum period of two years.

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4. The Rule in question regulating the method of recruitment to the post of Junior Engineer after amendment in November, 2006 is reproduced as under:-

Sr. No .	Designation of the post	Method of recruitment	By Direct appointment	By promotion	By transfer on deputation
1	2	3	4	5	6
	Junior Engineer (Civil) Junior Engineer (Public Health)	(i) Seventy five per cent by direct appointment, (ii) Twenty five per cent by promotion; Provided that if no suitable person is available for appointment to the Service by promotion, then such a post shall be filled in by transfer on deputation and the vacancy so filled in shall be counted towards the quota fixed for appointment by promotion]	Should possess Diploma in Civil Engineering of a recognized Institute.	(a) Seventeen and half percent from amongst the Surveyors who have an experience of working as such for a minimum period of eight years and who have passed the three years Diploma in Engineering (Civil) from a recognized Institute; and (b) If Surveyor is not eligible, then from amongst the Supervisors, who have an experience of working as such for a minimum period of eight years and who have passed three years Diploma in Engineering (Civil) from a recognized Institute; (c) Two and half percent from amongst the Work Mistries working in the Board or Committee who have an experience of working as such for a minimum period of fifteen years; and (d) Five percent from amongst those Draftsmen (Civil), Tracers working in the Board who possess Diploma in Civil Engineering from a recognized Institute.	From amongst the Junior Engineers (Civil) working in a Department of the Government of Punjab or in a State Government undertaking who have an experience of working as such for a minimum period of two years.

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5. Learned counsel for appellants, thus prayed that present appeal be allowed and impugned order dated 11.12.2017, passed by learned Single Bench be set aside with the writ petition being dismissed.

6. Learned counsel for respondent refuted the arguments as raised on behalf of appellants and submitted that impugned judgment dated 11.12.2017 has been correctly passed. Once writ petitioners had been given current duty charge of the post of Junior Engineers and they had been working thereon and subsequently promoted to the said post, there is no reason whatsoever to deny the benefit as claimed by them. It was thus prayed that this appeal being devoid of any merit be dismissed.

7. We heard learned counsel for parties at length and have perused the file carefully.

8. It is a matter of record that writ petitioners were serving as Supervisors with the Punjab Mandi Board, having been appointed on different dates between 1984 to 1989. Relevant Rules governing promotion to the post of Junior Engineer as reproduced in the foregoing paras reveal that they were indeed not entitled for promotion to the said post on 23.05.2001, i.e. the date they were given current duty charge of the post of Junior Engineer. It is after amendment in the Rules in 2006 that they were granted regular promotion to the post of Junior Engineer vide order dated 28.12.2006. It is further a matter of record that for a number of years thereafter writ petitioners did not raise any claim for the difference in the salary for the period they were holding current duty charge till filing of CWP-4323-2015. In all fairness, it is to be noted that a representation dated 03.12.2012 has been attached as Annexure P-5 with the writ petition, claiming the pay scale and seniority with a reference to some earlier representations which are admittedly not on record. In our considered opinion

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learned Single Bench has not taken in account the fact that giving of officiating charge in all circumstances may not earn fixation of higher pay scale for the post on which the officer is officiating. In this respect reference can be made to judgment of a Full Bench of this Court in ***Subhash Chander Vs. State of Haryana and others, 2012(1) RSJ 442*** and specifically para 14 thereof wherein reference was made to judgment of Hon'ble the Supreme Court in the case of ***Ramakant Shripad Sinai Advalpalkar Vs. Union of India, 1993(3) SCT 586***.

9. In the given factual situation where writ petitioners were not even eligible for being promoted to the post of Junior Engineer in May 2001 when they were given the officiating charge, we find that affording them benefit of salary for the period in question is not justified. Admittedly, there was no provision in the 1989 Rules, for promotion of the writ petitioners, who were diploma holders, to be promoted to the post of Junior Engineer. Gainful reference can also be made to the judgment of Hon'ble the Supreme Court in State of ***Haryana Vs. R.K. Aggarwal, 1997(3) SCT 638***, wherein decision of Hon'ble the Supreme Court in the case of ***Smt. P. Grover Vs. State of Haryana and another*** has been distinguished as under:-

“The respondent has relied upon a decision of this Court in the case of Smt. P. Grover v. the State of Haryana and Anr. MANU/SC/0344/1983: [1983]35CR654. In that case the appellant was promoted as an acting District Education Officer but the order of promotion contained a super-added condition that she would continue to draw her salary on her existing scale of pay as a teacher. This Court held that in the counter-affidavit filed on behalf of the Govt. of Haryana no rational explanation was offered for denying the pay of District Education Officer to the appellant after she was promoted to act as a District Education Officer. In the absence of any rule justifying such refusal to pay to an officer promoted to a

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higher post the salary of such higher post the same should be given from the date she was promoted to the post. This judgment will not apply to the facts of the present case. In the present case there is a rational explanation for not granting promotion to the respondent during the impugned periods. This was because the litigation was pending in relation to the inter-se seniority of various concerned officers. It was, therefore, not clear who would be ultimately promoted. It was only pursuant to the directions of this Court that the promotion was given to the respondent first as Chief Engineer and thereafter as Engineer-in-Chief the latter also being subject to a condition relating to the determination of seniority by the department pursuant to the directions of this Court. There was, therefore, a valid reason for not effecting the promotion of the respondent during the material period. In each of the posts of Chief Engineer and Engineer-in-Chief the respondent has been given his promotion from a subsequent date as the orders of promotion clearly show.”

10. In the given facts and circumstances as above impugned decision dated 11.12.2017 is not sustainable. Present appeal is accordingly allowed and impugned decision dated 11.12.2017, passed by learned Single Bench is set aside. Writ petition is consequently dismissed.

11. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

03.05.2025
Sunil

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