courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 05/09/2026

(2012) 02 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2539 of 2012 (O and M)

Baljinder Singh and others — APPELLANT

Vs

State of Punjab and others — RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:
Constitution of India, 1950 — Article 14, 16

Citation : (2012) 167 PLR 229 : (2013) 2 SLJ 96

Hon'ble Judges : Tej Pratap Singh Mann, J;Satish Kumar Mittal, J

Bench : Division Bench

Advocate : N.R. Dahia, for the Appellant;

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioners are having either the B.Sc. Engineering, Bachelor of Engineering or AMIE Degree. They are working as Junior Engineers in the Department of Public Works (Building & Road Branch), State of Punjab (hereinafter referred to as ''the respondent department''). In the instant writ petition, they have challenged the seniority lists of the Junior Engineers prepared by the respondent department during the years of 2009 and 2011 (Annexures P-1 and P-2) on the ground that these seniority lists have not been prepared in accordance with the date of acquiring of the qualifications of B.Sc. Engineering, Bachelor of Engineering or AMIE Degree. Rather both these seniority lists have been prepared on the basis of length of service in the cadre, irrespective of the date of acquiring of the Degree of Engineering by them. The petitioners have also prayed for issuing of direction to the respondent-State Government to reconstruct Rule 6 of the Punjab Service of Engineers (Civil Wing), Department of Public Works (B and R Branch) Group ''A'' Service Rules, 2005 (Annexure P-3) (hereinafter referred to as ''the Service Rules of 2005''), by adding subparagraphs illustrating/adding the provisions for the maintenance of seniority list of the Junior Engineers, having acquired Engineering/AMIE degree, for promotion to the 13% quota of Sub Divisional Engineers, based on the date of

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/baljinder-singh-and-others-appellant...

acquiring/passing of the Engineering Degree/AMIE; and to declare the said Rule ultra vires Articles 14 and 16 of the Constitution of India to that extent. It is further prayed that all the petitioners be promoted to the post of Sub Divisional Engineers with effect from 3.2.2010, the date on which the private respondents have been promoted on the basis of the impugned seniority lists, allegedly on wrong criteria. According to the Service Rules of 2005, the posts of Sub Divisional Engineers in the respondent department are to be filled up by the ratio of 40% by promotion from Junior Engineers and 60% by direct recruitment. As per Appendix ''B to the Service Rules of 2005'', 40% posts of Sub Divisional Engineers are to be filled up by promotion from the following feeder cadres:-

(a)(i) 25% from amongst the Junior Engineers working under the control of Chief Engineer who possess a Diploma in Engineering in Civil and who have an experience of working as such for a minimum period of 10 years.

(ii) 13% from amongst the Junior Engineers working under the control of the Chief Engineer, who possess a Degree in Engineering in Civil or Degree of AMIE from a recognized University or Institution, and who have an experience of working as such for a minimum period of 3 years after obtaining the aforesaid Degree.

(iii) 2% from amongst the Circle Head Draftsmen who possess a Degree in Engineering in Civil or a Degree of AMIE from a recognised University or Institution and who have an experience of working as such for a minimum period of two years; and

(b) should have qualified the Departmental examination in such papers and syllabi, as may be specified by the Government from time to time.

All the petitioners belong to the category of Junior Engineers, who are to be promoted to the post of Sub Divisional Engineers against 13% quota. For being considered for promotion under this category, the following two conditions are to be fulfilled by a Junior Engineer:

(i) he/she should possess a Degree in Engineering in Civil or Degree of AMIE from a recognised University or Institution; and

(ii) he/she should have an experience of working as Junior Engineer for a minimum period of 3 years after obtaining the aforesaid Degree.

Rule 6 of the Service Rules of 2005 provides for method of appointment, qualifications and experience, which reads as under

6. Method of appointment, qualifications and experience -

(1) Appointment to the Service shall be made in the manner, specified in Appendix ''B''.

Provided that if, no suitable candidate is available for appointment to the Service by promotion and by direct recruitment, then appointment to the Service shall be

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/baljinder-singh-and-others-appellant…

made by transfer of a person holding a similar or an identical post under a State Government or Government of India.

(2) No person shall be appointed to a post in the Service, unless he possesses the qualification and experience as specified against that post in Appendix ''B''.

(3) Appointment to the Service by promotion shall be made on seniority-cum-merit basis, but no person shall have any right to claim promotion on the basis of seniority alone:

Provided that promotion to the post of Chief Engineer, being Head of the Department, shall be made on merit-cum-seniority basis.

2. In the present writ petition, contention of the petitioners is that seniority of the Junior Engineers for the purpose of promotion to the post of Sub Divisional Engineer against the 13% quota should be determined on the basis of the date, on which the candidate obtains the Degree in Engineering in Civil or Degree of AMIE from a recognised University or Institution. The seniority should not be determined on the basis of joining the respondent department as Junior Engineer.

3. Undisputedly, the respondent department has prepared the seniority list of Junior Engineers Degree Holders, which is to be used for filling up 13% posts of Sub Divisional Engineers on the basis of their length of service as Junior Engineers.

4. Learned counsel for the petitioners argued that if seniority in Rule 6 of the Service Rules of 2005 is given the said meaning, then it will result into arbitrariness, as the person who had acquired the AMIE Degree subsequent to the petitioners may be promoted on the basis of his seniority in the cadre, determined on the basis of the length of service. It has been argued that Rule 6 of the Service Rules of 2005 is ambiguous and is resulting into arbitrariness in the matter of promotion, therefore, another sub-paragraph is required to be added to clarify that a separate seniority list of the Junior Engineers for the purpose of promotion to the post of Sub Divisional Engineers in the 13% quota is to be prepared on the basis of date of acquiring of the Degree in Civil Engineering and not on the basis of the date of joining the post of Junior Engineer. In this regard, learned counsel for the petitioners has referred to the "Punjab State Electricity Board Service of Engineers (Civil) Recruitment Regulations, 1965" (Annexure P-4), wherein the date of obtaining the Degree of Engineering/AMIE has been taken as a criteria for preparation of the seniority list of the similarly placed employees for promotion to the post of Assistant Engineer in the Electricity Department.

5. After hearing learned counsel for the petitioners, we do not find any substance in the contention raised by him. Rule 6 of the Service Rules of 2005 is very much clear. According to Sub-rule (3) of this Rule, appointment to the Service by promotion shall be made on ''seniority-cum-merit'' basis. Two eligibility conditions have been laid in Appendix ''B'' attached to the Service Rules of 2005,

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/baljinder-singh-and-others-appellant…

which are to be fulfilled by a Junior Engineer for being considered for promotion to the post of Sub Divisional Engineer against the 13% quota. On fulfilling these two conditions, the eligible official will be entitled for consideration for promotion to the post of Sub Divisional Engineer on the principle of ''seniority-cum-merit''. The seniority of a Junior Engineer on the basis of length of his service has to be given due care in the principle of ''seniority-cum-merit''. No separate seniority list of the Junior Engineers is required to be prepared on the basis of the date of their acquiring the Degree of Civil Engineering/AMIE. If a Junior Engineer in the cadre acquires the requisite Degree, he will become eligible in 13% quota for consideration for promotion to the post of Sub Divisional Engineer after three years of acquiring such Degree. If any vacancy occurs in the said category, the same will be filled up by considering all the eligible candidates on a particular date. By adopting this principle, no discrimination is being made between the Degree Holder and non-Degree Holder Junior Engineer''s. If a separate seniority list of Junior Engineers is prepared on the basis of the date of acquiring the Degree of Engineering by them and ignoring the length of service, at the time of considering their claim for promotion against 13% quota on the basis of seniority-cum-merit, then it will result in discrimination against the senior Junior Engineers, who by chance may have acquired the Degree of Engineering a bit later. In the instant case, the private respondents have been promoted on the post of Sub Divisional Engineers, as they were possessing the requisite Degree of Engineering and were also senior to the petitioners in the cadre. Their promotion in the said category of 13% quota was based on the principle of ''seniority -cum-merit'', which is the requirement of the Rules. Thus, no fault can be found in their promotion.

6. The petitioners are not disputing their seniority in the cadre and the promotion of the private respondents on the basis of seniority-cum-merit basis. Their only contention is that since they have acquired the requisite Degree of Engineering prior to the private respondents, therefore, they should be treated senior to the private respondents. In our opinion, this contention cannot be accepted. The seniority in the cadre has nothing to do with the acquiring of a particular Degree. Acquisition of such a Degree makes a candidate eligible for being considered for promotion only after having the requisite experience after the acquiring of the Degree.

7. So for as the "Punjab State Electricity Board Service of Engineers (Civil) Recruitment Regulations, 1965" referred by learned counsel for the petitioners are concerned, we are of the opinion that it will not give right to the petitioners to have similar Rules in the respondent department. It is the prerogative of the rule-making authority to frame a Rule with regard to eligibility and method of recruitment. The only condition is that such Rule should not be violative of the provisions of the Constitution of India. In the present case, the Service Rules of 2005, in our opinion, are valid and there is no ambiguity or arbitrariness in the same. In view of the above, we do not find any arbitrariness in Rule 6 of the Service Rules of 2005. The seniority lists (Annexures P-1 and P-2) prepared by

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/baljinder-singh-and-others-appellant…

the respondent department as well as promotion of the private respondents made on the basis of these seniority lists on the principle of seniority -cum- merit are found to be legal and valid.

No merit. Dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/baljinder-singh-and-others-appellant…