
(1992) 02 P&H CK 0158
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 10371 of 1991

Bhagat Ram

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 11-02-1992

Acts Referred:

Punjab Department of Public Works (Building and Roads Branch) Circle Offices (Class III Ministerial) Service Rules, 1988 — Rule 10, 3, 7

Citation : (1994) 1 ILR (P&H) 384

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : G.C. Gupta, for the Appellant; Varinder Pal Singh, AAG (P) and J.C. Nagpal, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Petitioner herein claims that the Punjab Department of Public Works (Building and Roads Branch) Circle Offices (Class III Ministerial) Service Rules. 1988 (hereinafter to be referred to as the Rules) Create and constitute one service and that the Respondents are not entitled to treat each circle as constituting a separate cadre and service. On this premises the Petitioner impugnes the promotions of Respondents Nos. 3 to 5 from the post of Senior Assistants to those of Superintendents Grade-II. A few facts as relevant for the decision of this controversy may be noticed.

2. The Petitioner was recruited as a Clerk in Bhatinda circle on December 12, 1961. He was promoted as a Senior Assistant in the same circle on May 14 1975. As against this, Respondent No. 3 was recruited as a clerk on September 10, 1955 in Patiala circle. Respondent No. 4 was appointed as a Clerk on May 7, 1956 in Sangrur circle. Respondent No. 5 was recruited as a Clerk in Bhatinda Circle after the petition on May 8, 1969. It may be added that he belongs to the category of scheduled caste. Thereafter, Respondent No. 3 was promoted as a Senior Assistant in Patiala circle in the year 1978. Similarly, Respondent No. 4

was promoted as a Senior Assistant in Sangrur circle on June 20, 1975. Respondent No. 5 got promotion as Senior Assistant on June 6, 1975. In the year 1991, Respondents Nos. 3 to 5 have been promoted as Superintendents Grade-II. While Respondents Nos. 4 and 5 were promoted in their respective circles, Respondent No. 3 was initially promoted in Chandigarh circle but was later on reverted to Patiala circle in October 1991. Aggrieved by these promotions, the Petitioner has approached this Court. The promotions of Respondents Nos. 3 to 5 as Superintendents Grade-II have been challenged primarily on the ground that the Petitioner having been promoted as Senior Assistant earlier than all of them, had a right to be considered for appointment to the post of Superintendent Grade-II prior to the Respondents.

3. Two separate written statements have been filed. In the written statement filed on behalf of the official Respondents viz. 1 and 2, it has been inter-alia averred that the post of Superintendent has to be filled up by promotion from amongst the Assistants of that circle and that a joint seniority list of the personnel working in different circles is not required to be prepared. With regard to Respondent No. 5, it has been explained that he was promoted in Bhatinda circle against a reserved vacancy in his parent circle. With regard to Respondent No. 3, it has been pointed out that he was promoted against the post of Patiala circle as a stop gap arrangement due to administrative reasons and that he has now been transferred back to his parent circle,--vide orders dated October 1, 1991. To similar effect are the averments made in the written statement filed on behalf of Respondents Nos. 3 and 4.

4. I have heard Mr. G.C. Gupta, learned Counsel for the Petitioner and Messrs Varinderpal Singh and J.C. Nagpal, for the Respondents. Mr. Gupta, contends that the rules constitute one service. With reference to Appendix "A", he points out that posts in different cadres like Superintendents Grade-II, Steno-graphers, Assistants, etc. etc. have been sanctioned. There is no mention of any post in a particular circle. To illustrate, he submits that a total of 19 posts have been sanctioned in the cadre of Superintendents Grade-II. In this situation, the learned Counsel submits that it was incumbent on the department to prepare a joint seniority list of the personnel working in different circles and to consider the claims of the eligible persons in order of seniority for promotion to the rank of Superintendents Grade-II. The claim made on behalf of the Petitioner has been controverted by the learned Counsel for the Respondents.

5. A perusal of the rules no doubt shows that under Rule 3, the service comprises the posts shown in Appendix "A", it is also correct that in Appendix "A", the posts have not been sanctioned circle-wise, however, there is a Note in Appendix "A" to the effect that "the number of posts indicated above give the combined strength of each category of posts in the Circle Cadres. A perusal of this Note indicates that the rule making authority intended to constitute circle cadres. Furthermore, a perusal of Rule 7 shows that all appointments in the Service shall be made by the Superintending Engineer ---"with a proviso that "in the case of

Superintendent Grade II, appointment shall be made by the Chief Engineer." It is also clear from the rules that circle means the area under the control of a Superintending Engineer. On a combined reading of the rules, I am satisfied that Superintending Engineers have been authorised to make appointments to the service in the areas under their respective control. Further, the Chief Engineer has been empowered to make appointment to the post of Superintendent Grade-II. Even the interne seniority under Rule 10 of the members of the service, in each cadre, has to be determined by the length of their continuous service on a post in that cadre. Rule 10 further shows that by these rules, the provisions of the Public Works Subordinate Services (Buildings and Roads Branch) Rules, 1934 as also other certain rules were repealed. It is also the admitted position that ever since their entry into service. The parties have earned their promotions within their respective circles. It was on this basis, that the Petitioner who had entered service as a clerk in December 1961 became a Senior Assistant in Bhatinda circle on May 14, 1975 while Respondents Nos. 3 and 4 who had entered service many years prior to him, were promoted as Senior Assistants later than the Petitioners. Taking the totality of the circumstances into consideration and on an examination of the rules, I am of the considered view that the department has consistently maintained that each circle constitutes a separate cadre. It is on this basis the inter se seniority and promotions have been ordered hither to fore. Even promotions to the rank of Superintendent Grade II have been ordered on that basis. This does not violate any of the provisions of the rules.

6. In view of the above, I find no infirmity in the impugned orders. The writ petition is accordingly dismissed. In the circumstances of the case, there will be no order as to costs.