
(2015) 07 P&H CK 0368

In the Punjab And Haryana At Chandigarh

Case No : CM. No. 610 of 2015 and C.W.P. No. 18198 of 1997

Dharam Pal and Others

APPELLANT

Vs

Haryana State Electricity Board and Others

RESPONDENT

Date of Decision : 22-07-2015

Acts Referred:

Citation : (2015) 4 SCT 317

Hon'ble Judges : Ajay Tewari, J.

Bench : Single Bench

Advocate : Dinesh Kumar, Advocate, for the Appellant; Mahesh Gupta, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Ajay Tewari, J.

CM. No. 610 of 2015

1. For the reasons recorded, the application is allowed. The main case is listed for hearing today itself.

C.W.P. No. 18198 of 1997

By this petition the petitioners have challenged the promotion of respondents No. 4 to 8 as Assistant Engineer vide order dated 17.06.1997 (Annexure P-14) and the orders dated 20.10.1993 (Annexure P-6), 21.03.1995 (Annexure P-7) and 09.04.1996 (Annexure P-8), where by the respondents No. 1 to 3 overruled the objections of the petitioners and held that the ranking list for promotion from the post of Engineering Subordinates to the post of Assistant Engineer would be made after calculating the entire experience of all Engineering Subordinates and not only that experience which has been obtained after acquisition of the degree, as well as the order dated 14.06.1997 (Annexure P-13) rejecting the representation of the petitioners against the promotions.

2. The petitioners joined as Engineering Subordinates. As per the Regulation 9 of

the Punjab State Electricity Board, Service of Engineers (Electricals) Recruitment Regulations, 1965 (as applicable to H.S.E.B.), which was applicable at the relevant time i.e. 17.06.1997, recruitment to the post of Assistant Engineer was made from different sources and 12% quota of the posts were reserved in the following manner:-

"(ii) The name of eligible candidates in the Ranking List, will be arranged in order of their date of passing AMIE/BE examination. The name(s) of the JEs who qualify the AMIE/BE Examination, during the subsequent years, will be added in the Ranking List below the name(s) of the candidates, who have passed the said exam, in the earlier years."

3. The contention of the learned counsel for the petitioners is that in this kind of rule situation only that experience has to be considered which has been obtained after the acquisition of the degree and it would not be permissible for the respondents to count that experience which was obtained prior to the acquisition of the degree. In this connection he has relied upon the judgment of the Hon'ble Supreme Court in the matter of K.K. Dixit and others v. Rajasthan Housing Board and another, reported as 2014 (4) S.C.T. 220, wherein their Lordships posed the following question in para No. 20:-

"Further dispute between the parties is in respect of issues arising out of Question No. 2. The primal question which requires to be answered is whether the diploma holders who acquired the qualification of AMIE during service should be given the benefit of experience of service rendered by them as diploma holders for promotion to the post of Project Engineer (Senior) against the 20% quota for the degree holders or they need to acquire further three years" experience of service after acquiring the qualification of AMIE for availing such benefit."

4. Thereafter their Lordships discussed the entire gamut of case law and held as follows:-

34. In the light of aforesaid discussions, we find merit in these appeals and they are accordingly allowed to the extent of reversing the views of the High Court in respect of Question No. 2 as noted by the Division Bench in the common judgment under appeal. We hold that the Project Engineers (Junior) recruited on the basis of diploma, upon their acquiring the qualification of "AMIE", are not entitled to count their experience of service prior to acquisition of such qualification for the purpose of eligibility for promotion to the post of Project Engineer (Senior) against the 20% quota fixed for promotion of degree holder Project Engineers (Junior). In order to claim promotion against such 20% quota the three years" experience of service must be acquired after obtaining the qualification or degree of AMIE."

5. No contrary judgment has been cited by the learned counsel for the respondents.

6. In the circumstances, the petition is allowed. The impugned orders are quashed and the respondents are directed to consider matter of the impugned promotion afresh in the light of the law laid down by the Hon''ble Supreme Court within a period of three months from the date of receipt of a certified copy of this order. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.