

(2013) 08 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21078 of 2012

Paramjit Singh Saini and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 22-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0009

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : D.S. Patwalia, for the Appellant; Nilesh Bhardwaj, DAG, Punjab and Mr. J.S. Puri, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mahesh Grover, J.—The petitioners who are working as Junior Engineers have approached this Court seeking a direction to declare circular dated 12.09.2007 (vide which quota of 25% has been carved out for deputationists in the cadre of Sub-Divisional Engineers) as ultravires. As a consequential relief prayer has been made to quash the orders which have come into existence affecting the rights of the petitioners to occupy posts of Sub-Divisional Engineers even as holders of current duty charge. Cause of grievance of the petitioners is that action of the State Government in imposing this quota of 25% for deputationists from the State Irrigation Department to the post of Sub-Divisional Engineers thereby cause stalemate as far as employees of the Corporation are concerned.

2. An almost similar controversy was answered by this Court in CWP No. 6583 of 1999 titled as Ramji Dass, Assistant Engineer vs. State of Punjab and others decided on 24.05.2013 and this Court held as follows:-

6. The directives of the State which are made the subject of challenge in the writ petition cannot be allowed and they are quashed. I take notice of the fact that the petitioners have come by benefit of promotion during the pendency of the writ petition and these observations do not, however, become purely academic

for it is a decision rendered in the light of the circumstances that the appointments were made subject to the decision of this Court and is hereby ruled that the State directives were not legal and enforceable. The Corporation shall set its own terms of service without in any way allowing the State to trench upon its activities on a day to day basis or on its long term.

7. The petitioners have in this case been assigned to the posts of Assistant Engineer on their own pay-scale and that they would not be entitled to regular pay-scale and seniority as Assistant Engineer. The communication issued on 16.1.1998 states that it is only a temporary arrangement till the appointment of deputationists. Since I have held that quota prescribed by the State for deputationists without the Corporation itself taking an objective decision is not valid, the appointments made to the post allowing for persons to hold temporary charge must be taken as holding the post in the vacancies available for them and the respondents are bound to consider the appointment as made for post to which the petitioners were entitled. The scales for the promotion post shall be from that day when they held current duty charge and all the consequential benefits shall be calculated and released to them within a period of 12 weeks from the date of receipt of copy of the order.

3. It has not been disputed by either of the parties that the matter is squarely covered by the ratio of the judgment referred to above.

4. That being so, the present writ petition is also disposed of in the same terms. The action of the respondents in imposing deputationist upon the Corporation is held to be arbitrary and detriment to the case of the Corporation, hence, unsustainable. As a result thereof the orders dated 25.09.2012 and 15.10.2012 (Annexures P-5 to P-7) are also directed to be quashed. The petition stands disposed of.