

A

SIRI PAL

v.

HARYANA STATE ELECTRICITY BOARD

JANUARY 9, 1995

B

[K. RAMASWAMY AND S.C. SEN, JJ.]

C

Service Law—Electricity (Supply) Act, 1948—Sec. 79(c)—Revised Recruitment & Promotion Policy—Engineering graduates—Out of turn promotion Policy decision of April 1980 withdrawn March 1981—Out of turn promotions between 1989 and 1991—No one entitled to promotion.

D

The appellant while working as lineman with the Haryana Electricity Board acquired in March 1992 the qualification of A.M.I.E. which is equivalent to a B.E. degree. The Board under Sec. 79(C) of the Electricity (Supply) Act, 1948 had passed a Promotion Policy Resolution dated April 22, 1980 which envisaged grant of out of turn promotion to candidates who had acquired Degree qualification in Engineering. In March 1981 the said promotion policy was withdrawn and the Board decided to grant two advance increments to persons holding such qualifications. On the basis of the 1980 policy the appellant claimed promotion to the post of Junior Engineer but was granted only two advance increments.

E

F

The appellant's Writ Petition in the High Court was dismissed on the ground that on March 12, 1981, the benefit of granting out of turn promotion to the candidates who had acquired degree qualification was withdrawn. Instead the Board had decided to grant two advance increments. Accordingly, the appellant was not entitled to the benefit of promotion.

G

Before this Court, the appellant contended that ten persons who had secured graduation in the years 1989 to 1991, were promoted as Junior Engineers. The respondent in its counter affidavit admitted that the promotions were given wrongly to some persons. The ten persons so promoted sought to come on record as interveners.

H

Dismissing the appeal, this Court

HELD : 1. Since the policy decision taken in April 1980 was withdrawn

in March 1981 no one will be entitled to claim nor be given any promotion out of turn on the basis of acquiring graduation, be it A.M.I.E. or B.E. However, some persons were admittedly promoted but the same was being recalled and withdrawn by the Board. In view of the facts and circumstances of the case no directions need to be given to the Board to consider the case of the appellant for out of turn promotion. [124-H, 125-A-B]

2. If the appellant was eligible under the policy and 60% posts were available, the vacancies should be notified by the Board for direct recruitment and the appellant could also apply for being considered at par with others for appointment as direct recruit in accordance with rules. [125-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 722 of 1995.

From the Judgment and Order dated 6.1.94 of the Punjab & Haryana High Court in C.W.P. No. 15442 of 1993.

Pannalal Syngal, Franklin David and D.B. Vohra for the Appellant.

M.R. Sharma, K.K. Jain, Ms. Anjana Sheena and Pramod Dayal for the Respondents.

Anant Palli, Dinesh Kumar, Atul Sharma, Ms. Rekha Palli, S.C. Patel, K.K. Mohan and Pradeep Gupta for the Interveners.

The following Order of the Court was delivered :

Leave granted.

This appeal arises from the judgment and order of the Punjab and Haryana High Court dated January 6, 1994, made in CWP No. 15442/93. The appellant while working as a Lineman, admittedly, had acquired the qualification of A.M.I.E. which is equivalent to B.E. Degree in March, 1992. On this basis, he filed a writ petition for out of turn promotion as Junior Engineer as envisaged by the Board in its policy dated April 22, 1980. The writ petition was dismissed on the ground that on March 12, 1981, the benefit of granting out of turn promotion to the candidates who have acquired Degree qualification was withdrawn. Instead the Board had decided to grant two advance increments on that basis he was granted two advance increments. Accordingly, he is not entitled to the benefit.

- A In special leave petition, allegation was made that certain persons who have secured graduation in the years 1989 to 1991, were promoted as Junior Engineers. Notice was issued to the respondents to show cause why the same benefit should not be given to the appellant as well. In the counter affidavit filed in this court, it was admitted that the promotions were wrongly given. Pursuant thereto a direction was issued by this Court to find out as to what action was taken by the Board in that behalf. Thereafter proceedings appear to have been taken to recall the promotions given to ten persons. We are not concerned, at this stage, with regard thereto, with them though they sought to come on record as interveners.
- B
- C The crucial question, however, is whether the appellant is entitled to out of turn promotion. The Board has passed a Promotion Policy Resolution exercising powers under s.79(c) of the Electricity (Supply) Act, 1948, called 'Revised Recruitment and Promotion Policy'. Paragraph 1.3 of this Policy relates to the 'Lineman' to which post the appellant belongs. Paragraph 1.3.1 provides that the recruitment will be made from amongst Assistant Linemen working in respective circles on seniority-cum-merit basis. The post of Assistant Foreman, as per paragraph 1.4.1. is to be filled up by promotion from amongst Linemen on seniority-cum-merit basis. Thereafter, the Junior Engineers are to be recruited under paragraph 1.5. Paragraph 1.5.1. provides that 60% posts of Junior Engineers (Field) will be filled up by direct recruitment out of the persons having three years' Diploma in Electrical/Mechanical/Electronics. Employees already in the service of the Board and possess the requisite qualifications but working on lower post on regular basis, will also be eligible for direct recruitment.
- D
- E In other words, 60% of the posts are available for direct recruitment including the persons who are having the requisite qualifications and working in the lower regular posts. Paragraph 1.5.3. prescribes promotion from Assistant Foremen. It postulates that 40% posts will be filled up by promotion from amongst the Assistant Foremen on seniority-cum-merit basis and belonging to the category under para 1.4.2. above. Thus it could be seen that for normal channel of promotion a Lineman is entitled to be considered for the post of Assistant Foreman and an Assistant Foreman is entitled to be considered for promotion as Junior Engineer. Since the policy decision, which was taken in April, 1980, was withdrawn in March 1981, no one will be entitled to claim nor be given any promotion out of
- F
- G
- H turn on the basis that he had acquired graduation, be it A.M.I.E. or B.E.

It is seen that some persons, admittedly, have been promoted but the promotions are being recalled and being withdrawn by the Board. If it was a case where the candidates are allowed to take the benefit, the appellant, certainly, would be right in his contention that he stands on the same footing for consideration. Since the Board has already taken action to withdraw the benefit wrongly given, which would be passed shortly, we cannot give any directions to the Board to consider the case of the appellant for out of turn promotion. Needless to state that if the appellant is eligible under the Policy and 60% posts are available, the Board should notify the vacancies for direct recruitment and the appellant can also apply for being considered at par with others for appointment as direct recruit in accordance with the Rules. The appeal is accordingly dismissed. No costs.

I.A. No. 8/95 - Dismissed as withdrawn.

All other applications for intervention are dismissed.

A.G.

Appeal dismissed.