



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 8858 of 1999
Date of Decision: 05.03.2025**

Surinder Kumar Makkar and others

....Petitioners

vs.

Haryana Vidyut Parsaran Nigam, Panchkula and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate
for the petitioners

Mr. Jayant Puneet Bamal, Advocate for
Mr. H.S.Gill, Advocate
for respondent No. 1

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226 and 227 of the Constitution of India are seeking setting aside of order dated 29.01.1999 (Annexure P-15) whereby their claim for promotion has been declined on the ground that they belong to different cadre.

2. The petitioners joined as Junior Engineers on different dates. They were regularised with effect from 31.01.1994. The respondent promoted their juniors. The petitioners came to be promoted later on. The stand of respondent was that petitioners and private respondents belong to



different cadres and they are governed by different set of Rules, thus, they carry separate seniority.

3. Mr. Ishnoor Singh, Advocate submits that this Court in CWP No. 6557 of 1993 titled as “Rajender Singh Randhu and others vs. Haryana State Electricity Board and others” decided on 29.07.1997 has adverted to issue involved herein. The Court has clearly held that ‘Generation Cadre’ and ‘General Cadre’ are creation of Respondent-Board. The members of both cadres are interchangeable and the promotional post in the General Cadre can be filled from both cadres. The members of Generation Cadre cannot be denied promotion on the ground that they are not part of General Cadre. The operative position of order dated 29.07.1997 is reproduced as below:-

“ I have given my thoughtful consideration to the submissions made by the learned counsel for the parties and have perused the record. From the advertisement, Annexure P-1, it is clear that the candidates selected pursuant to said advertisement could either be posted in Thermal/General projects or in the field cadre (General cadre) at the discretion of the Board. Admittedly, all the writ petitioners were higher in the merit list in comparison to all the private respondents and all the writ petitioners were posted in Generation cadre not because they had opted for posting in that cadre but only because of the orders passed by the respondent-Board. As stated herein above, the Junior Engineers working in Generation cadre can be transferred to the General cadre and vice versa. From the facts on record, it is also clear that the promotion made to the posts of Assistant Engineers vide impugned order, Annexures P-2, P-3 and P-4, were made against the posts meant for direct recruits and for those posts, the private respondents have got no preferential right to be



considered qua the writ petitioners. As a matter of fact, the writ petitioners had qualified the examination of AMIE/BE prior in time than all the private respondents and in terms of Regulation 9, they were entitled to be considered and promoted to the post of Assistant Engineer prior in time than the private respondents. There is no stipulation in the statutory rules that in case vacancies arise in the General cadre, then only persons working in the General cadre could be promoted as Assistant Engineer. On the contrary, the cadre of Assistant Engineers is only one cadre and as such persons working in the Generation cadre could not be discriminated qua the persons working in the General Cadre while making promotions to the posts of Assistant Engineers.

In view of these facts, I do not find any merit in the contention raised by Mr. Setia, learned counsel appearing on behalf of respondent No.1. Similarly, there is no merit in the submission made in the written statement filed on behalf of some of the private respondents. In fact, Annexure B filed with C.M. No.5713 of 1994, clearly shows that two of the private respondents who were promoted on adhoc basis vide orders, Annexures P-2, P-3 and P-4 have been regularised against the same post of Assistant Engineers from the date when they were appointed on adhoc basis. During the course of arguments, Mr. Rajiv Atma Ram, learned counsel appearing on behalf of the petitioners, submitted that even other respondents have also been regularised by respondent No.1 from the date when they were promoted as Assistant Engineers vide impugned orders.

In view of the above discussion, I am of the opinion that Annexures P-2 to P-4 have to be set aside. Accordingly, the writ petition is allowed and the orders dated 18th December, 1991 (Annexure P-2), 13th January, 1992 (Annexure P-3) and 3rd March, 1992 (Annexure P-4) are hereby set aside and the respondent No.1 is directed to consider the case of the



petitioners for promotion to the post of Assistant Engineers in the same manner as was done in the case of respondents Kashmir Singh and Rajiv Kumar vide order dated 7th April, 1991 copy of which has been filed as Annexure B with C.M. No.5713 of 1994. Needless to add, that consequential benefits have to be given to the petitioners after they are considered and promoted. The view I have taken finds full support from the two D.B.Judgments in the case of Kishan Chand (supra) and Ahush Bakhat Rai (supra). The parties are, however, left to bear their own costs.”

4. The respondent in the reply pleaded that aforesaid order is under challenge by way of LPA No. 657 of 1997. The matter is pending before a Division Bench of this Court.

5. On the asking of Court, counsel for the respondent confirmed that LPA No. 657 of 1997 stands dismissed, thus, order passed by learned Single Judge has attained finality. This Court cannot form an opinion contrary to aforesaid opinion formed by a Co-ordinate Bench of this Court.

6. In the wake of order dated 29.07.1997 passed in CWP No. 6557 of 1993, the instant petition is hereby allowed in the same terms.

7. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

05.03.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	