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

**LPA-100-2018 (O&M)
Date of Decision: 22.04.2025**

UNION OF INDIA AND ANOTHER ...Appellant(s)

Vs.

ANJANI KUMAR SHARMA AND ANOTHER ...Respondent(s)

**CORAM : HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Lalit Attri, Advocate,
for the appellants.

Mr. Vivek Singla, Advocate
for respondent No.1.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. This is an appeal preferred against the judgment dated 11.07.2017 passed by the learned Single Judge, whereby the learned Single Judge has directed to reconsider the petitioner's claim (respondent No.1 herein) for appointment and promotion to the post of Second-in-Command (Electrical) from the date the 3rd respondent (therein)-Lalit Kumar Kain was promoted w.e.f. 14.09.2011. Further the learned Single Judge has directed to grant consequential benefits like service and monetary from the date the 3rd respondent (therein)-Lalit Kumar Kain was promoted.

2. Learned counsel appearing for the appellants, submits that the learned Single Judge has fallen in error in considering the eligibility of the petitioner as on 31.10.2007, whereas, the eligibility was to be considered as on 1st of January of the year of consideration for promotion in terms of the



Office Memorandum dated 08.09.1998.

3. Learned counsel submits that the petitioner was considered for promotion to the post of Second-in-Command (Electrical) for vacancy as on 01.01.2007 and on that cut off date, since he was falling short of 08 months and 04 days residency period as prior to his induction in engineering cadre. The experience required for the purpose of eligibility for the post of Second-in-Command (Electrical) is in accordance with the Amended Rules 2007 which prescribes the minimum period of 11 years of service in Group “A” with further at least two years of regular service in the Grade of Deputy Commandant (Electrical). He submits that the interpretation taken by the learned Single Judge of counting the experience of 3rd respondent (therein)-Lalit Kumar Kain from the date of promulgation of the Rules i.e. 31.10.2007 is thus erroneous and would go contrary to the Office Memorandum which is generally applied for the purpose of considering the eligibility of the candidates for promotion. He further submits that since as on 01.01.2007 the petitioner had not fulfilled the aforesaid qualification as laid down in the 2007 Rules. The direction for granting the petitioner promotion for the post of Second-in-Command (Electrical), is not in accordance with law.

4. We have carefully considered the submissions made by the learned counsel for the parties and we find that the entire appeal is wholly misconceived.

5. The directions issued by the learned Single Judge is to re-consider the petitioner’s name for appointment/promotion to the post of Second-in-Command (Electrical) from the date his junior 3rd respondent (therein)-Lalit Kumar Kain was promoted i.e. w.e.f. 14.09.2011.



6. Thus, it is a case where the vacancy of Second-in-Command (Electrical) is to be considered as on 2011 if the Office Memorandum dated 08.09.1998 is read in its correct interpretation, the eligibility would be considered as on 01.01.2011. Taking note of the fact that the writ petitioner/respondent No.1 (herein) was appointed in Group "A" services as on 06.09.1996, he possesses more than 11 years of experience as eligibility as on 01.01.2011 and of the total period upto 01.01.2011 he completes two years as Deputy Commandant since he was promoted as Deputy Commandant since he was absorbed on 01.03.2004. The provisions of the Amended Rules, 2007 thus make him eligible for consideration from the date Lalit Kumar Kain had been promoted i.e. on 14.09.2011.

7. We find that there apparently seems to be a calculation mistake and error in the order passed by the learned Single Judge to the effect of considering the eligibility as on 01.01.2007, when the directions are to consider him for promotion w.e.f. 14.09.2011. The eligibility, therefore, has not to be considered as on 01.01.2007 or 31.10.2007 but as on 01.01.2011 as per the harmonious construction of reading the Office Memorandum along with Rules of 2007.

8. We accordingly direct the appellants to reconsider the petitioner's claim for promotion to the post of Second-in-Command (Electrical) from the date Lalit Kumar Kain has been promoted i.e. 14.09.2011 with all consequential benefits as directed by the learned Single Judge. The order dated 11.07.2017 passed by the learned Single Judge is accordingly suitably modified and the appeal is accordingly dismissed. Compliance shall be made within a period of three months.



9. Pending application(s), if any, shall also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(DEEPINDER SINGH NALWA)
JUDGE

22.04.2025

M.Sikka

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No

