



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

**RSA-2488-2000 (O&M)
Reserved on: 29.01.2025
Date of Decision: 31.01.2025**

**THE HARYANA STATE ELECTRICITY BOARD AND ANR.Appellants
Vs.**

SAT NARAIN AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. N.S. Swaitch, Advocate
for the appellants.

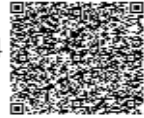
Respondents No.1 to 3 already ex parte.

None for respondent No.4.

DEEPAK GUPTA, J.

Suit for declaration with consequential relief of permanent injunction filed by plaintiff-Sat Narain and others (*respondents herein*) for themselves and others in representative capacity was decreed by the trial Court on 29.05.1998. The appeal filed by the defendants (*appellants herein*) was dismissed by the First Appellate Court on 08.10.1999. Against these concurrent findings of the Courts below, the defendants of the case have filed the present Regular Second Appeal.

2. Perusal of the paperbook reveals plaintiff Sat Narain and three others filed the suit for declaration with consequential relief of permanent injunction against the Haryana State Electricity Board (for short H.S.E.B.) in their personal capacity as well as in representative capacity on behalf of other employees, pleading that they were employees of defendant H.S.E.B. and were working as Jr. Engineers, posted either at Faridabad or at Panipat Thermal Power Station. As per them, on 1.4.1979, all the plaintiffs were working in different Trades/Branches in the Thermal Power House of defendants and they constituted one cadre and their pay scale was 700-30-850/900-40-1100-50-1250. Their designation was fixed as Thermal



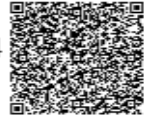
Supervisors/Thermal Operators, with total sanctioned post of the Cadre at Faridabad as well as Panipat to be 430. On 9.2.1981 by the order of the defendants, the plaintiffs were re-designated as Jr. Engineers in their respective fields of specialization. Their scales were also revised vide letter dated 22.4.1982 with retrospective effect i.e. with effect from 1.4.1979. Vide letter No.291/Finance dated 5.2.1982 issued by defendant No.1, it was decided as a matter of policy that defendants would release Selection Grades to 20% of the sanctioned posts of Thermal Supervisors and Thermal Operators. All the Supervisors and Thermal Operators had been re-designated as Jr. Engineers, therefore, that policy was applicable to 430 sanctioned posts of which the plaintiffs formed part of the Cadre. 20% of the posts were to be treated as posts carrying Selection Grade in the pay scale of 300-30-850/900-40-1100-50-1250. The pay in the Selection Grade was further revised on 22.4.82 and was re-fixed as 750-30-900-40-1200-50-1450 effective from 1.4.79.

3. Further case of the plaintiffs is that for the first time vide letter dated 6.12.1984, the defendant No.1 released Selection Grade only to 18 Jr. Engineers who were earlier working as Thermal Supervisors/Thermal and Operators/Operators were re-designated as Jr. Engineer(s) as per the policy decision of the department. Those persons were released from the Selection Grade as per revised pay scales. The plaintiffs represented to the department that against the sanctioned 430 posts of Jr. Engineers in the year 1979-80 onwards, 86 employees became eligible to the grant of Selection Grade in the revised pay scale and were liable to be placed in Selection Grade with effect from 1.4.1979. Out of 18 employees to whom Selection Grade was granted, four employees have been promoted to the next higher rank and thus two employees had resigned and only 12 persons remained in the list who have been granted Selection Grade. Despite repeated representations, the defendants did not heed to their request and thus, they approached the Civil Court for a decree of declaration that all the plaintiffs/ employees named in Annexure A were entitled to the grant of Selection Grade in the pay scale of ₹750-30-900-40-1200/50-1450 as Jr.



Engineers with effect from 1.4.1979 or on such revised pay scale as might be fixed by the defendants from time to time. They further sought direction to the defendants to release the arrears of salary of the plaintiffs respectively on the basis of Selection Grade with effect from 1.4.1979 together with interest 18% per annum on the arrears of salary to them by way of Mandatory Injunction. The plaintiffs sought directions to the defendants to release the Selection Grade immediately.

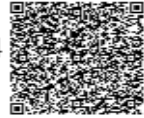
4. Defendants opposed the suit raising preliminary objection that grant of Selection Grade to junior engineers/thermal Supervisors Grade-I of 20 % of the total strength of 264 cadre posts on the basis of seniority was linked with final absorption of cadre employees of the Board for which the Civil Writ Petition No.4194 of 1986 was pending before the High Court and so, the Civil Court was barred from entertaining suit. It was pleaded further that the scales of Jr. Engineers, Thermal/Thermal Supervisors Grade-I is allowed by the Board was 700/1250 and according to staffing pattern, all the plaintiffs had been re-designated as Jr. Engineer Thermal in terms of memo dated 7.8.1985 and cadre dated 30.9.1985. They pleaded that the latest sanctioned strength of the above cadre posts was 264 and not 430 as alleged by the plaintiffs. They denied the factum of Thermal Operators having been designated as Jr. Engineer Thermal. They pleaded that in fact according to the latest recruitment and promotion policy for Thermal Projects adopted by the Board vide office order dated 27.5.1985 read with office order dated 7.8.1985, operators have been placed in the scale of 600/1100 and thus, have been redesignated as Thermal Supervisor Grade-II and not as Jr. Engineer, Thermal Engineer/Thermal. The defendants admitted that the Selection Grade to employees of the total cadre post was not disputed but the strength of the cadre post of the plaintiffs was 264 and not 430 as alleged, and Selection Grade was payable on the basis of seniority subject to the conditions that no charge-sheet, enquiry/embezzlement was pending and the work and conduct was good. Several employees who were senior to the plaintiffs and were due for Selection Grade, have already approached the High Court through the writ



and thus, no action to grant Selection Grade to others can be taken till the decision of the writ. Thus, the defendants sought dismissal of the suit.

5. Necessary issues were framed. Evidence produced by the parties was taken on record. Learned trial Court decreed the suit by holding that plaintiffs are entitled to the grant of selection cadre in accordance with their seniority. Defendants were directed to decide the matter for grant of selection grade to the plaintiffs within 06 months from the date of receipt of copy of the judgment. The findings as returned by the trial Court were affirmed by the First Appellate Court on 08.10.1999.

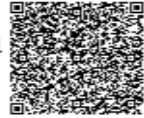
6. Assailing the aforesaid findings, it is contended by the appellants-defendants that courts below ignored the fact that selection grade was to be granted on the basis of actual working position and that at the relevant time, the actual cadre strength was 264 and as such only 52 Junior Engineers were eligible for grant of selection cadre being 20% of the cadre strength. It is also contended that after 01.01.1986, no selection grade is admissible because of the revision of the pay scales. It is contended by learned counsel that courts below ignored the fact that Thermal operators were not re-designated as Junior Engineers and that they had been placed in the pay scale of 600 - 1100 and they were actually designated as Thermal Supervisor Grade-II in accordance with the Recruitment and Promotion Policy for thermal projects adopted by the Board vide order dated 27.05.1985 to be read with office dated 07.08.1985 and this way the cadre strength of Junior Engineer (Thermal) was reduced and so the selection grade was to be granted on the basis of the actual number of posts occupied and not on the basis of the cadre strength. It is also contended that consolidated seniority list circulated by CE/O&M, Panipat was challenged before the High Court by way of LPA No.613 of 1992 in CWP-11665-1999 titled as 'Anil Vishwas another Vs. HSEB', which was yet to come for final hearing and the same admitted on 12.05.1992 and as such, the Courts below should not have entertained the suit.



7. Since there was no representation on behalf of the respondents at the time of hearing arguments, so the submissions made by learned counsel for the appellants have been considered.

8. It will be useful to reproduce the observations made by the First Appellate Court regarding both the points, which have been raised by the learned counsel and which were also urged before the First Appellate Court. The same read as under:

“10. Apart from other controversies, the main controversy is as to what is the total strength of the cadre. While the plaintiffs allege the strength to be 430 and claim that Selection Grade be granted to 20% of that strength, on the other hand, the defendants allege the total strength of the cadre to be 264 and thus, 20% of that strength was entitled for grant of Selection Grade. Another controversy is, while plaintiffs seek grant of Selection Grade immediately, on the other hand, the defendants pleaded that in view of the writ petition pending in the Hon'ble High Court, the Selection Grade cannot be granted to anyone till disposal of that writ. I have carefully gone through the documentary evidence placed on record. The learned trial Court rightly held that calculation made by the plaintiffs regarding existing strength of cadre of Jr. Engineers (Thermal) on the basis of Ex.P11 was incorrect because redesignations were later-on changed vide document Ex.DI, letter dated 22.5.85 and further vide letter dated 30.9.85. DW1-Shri K.L.Sachdeva admitted in his cross-examination that sanctioned strength of Jr. Engineers was 384, which included 188 of Thermal Supervisors and 196 of Thermal Operators and thus, the sanctioned strength given in Ex.P1 was correct. He further admitted that Thermal Operator and Thermal Supervisors were redesignated as Jr. Engineers but Operators were not included therein. Thus, a careful perusal of the documents and oral evidence coming on record, and also that of statement made by DW-1, it stands established that total posts for Selection Grade had sanctioned strength of 384. The claim of the plaintiffs that Operators numbering 46 as shown in list Ex.P11 were also included in that strength, is not tenable because that claim stands belled from documents Ex.D1 and D2. Thus, considering total strength of the cadre to be 384, the 20% strength for grant of Selection Grade comes to 76 and thus, 76 persons were entitled for Selection Grade whereas the Selection Grade was released only for 18 employees Thus, findings recorded by the learned Trial Court on that

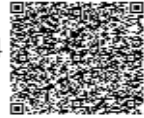


point is correct and in accordance with the evidence and thus, is not liable to be reversed or set aside.

11. However, as regards to the effect of the pendency of the writ petition in the Hon'ble High Court, the learned Trial Court rightly observed that the copy of writ petition was not placed on record and thus, he directed the defendants to decide the matter of grant of Selection Grade to the plaintiffs and others within six months from the receipt of copy of judgement on appreciating of their service records in accordance with the relevant rules and instructions of the department and if it was found by the department that in the eventuality the Selection Grade could not be granted to the plaintiffs in view of the writ petition, the case of the plaintiffs for grant of Selection Grade could be disposed of by passing a specific order on record appreciating the facts of the petition. The observations and the findings recorded by the learned Trial Court on issues No.7 in the given facts and circumstances of the case, are proper and not liable to be set aside. The defendants are bound to consider the case of the plaintiffs for grant of Selection Grade after considering their service records and also the effect of the writ and then dispose of their case after passing proper and relevant orders."

9. It is clear from the aforesaid observations of the first appellate court that sanctioned strength of Junior Engineers was found to be 384 on the basis of admission made by the witness examined by the defendants-appellants themselves & the documentary evidence and as such, the Courts below rightly held that considering this total strength of the cadre, 20% strength for the grant of selection grade comes to 76 and thus, 76 persons were entitled for the selection grade.

10. Apart from above, it is at the time of filing of this appeal way back in 2000 that it was stated in the appeal that some connected LPA was pending before this Court. However, neither learned counsel for the appellants has disclosed the fate of that LPA nor the learned counsel is able to convince this Court as to how the LPA is connected with the fate of the present appeal, inasmuch as plaintiffs/respondents are not party to that LPA.



11. In view of the entire discussion as above, this Court does not find any error in the impugned judgment passed by the Courts below. There is no ground to interfere in the well-reasoned concurrent findings of the fact as recorded by the Courts below. No illegality or perversity is found in the impugned judgments and as such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

31.01.2025

Pry

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No