

PETITIONER:
SIRI PAL

Vs.

RESPONDENT:
HARYANA STATE ELECTRICITY BOARD & ANR.

DATE OF JUDGMENT 09/01/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
SEN, S.C. (J)

CITATION:
1995 SCC Supl. (1) 361 JT 1995 (1) 451
1995 SCALE (1) 198

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. Leave granted.
2. 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 Marcy, 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12, 1981, the benefit of granting out of turn promotion to the candidates who have acquired Degree qualification was withdrawn.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.
3. 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.
4. 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

453

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 posts on regular basis, will also be eligible for direct recruitment. 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 turn on the basis that he had acquired graduation, be it A.M.I.E. or B.E.

5. 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.

6. All other applications for intervention are dismissed.

454