

IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA

Civil Writ Petition Nos. 1101 and 1311 of 2001.

Date of decision May 31, 2007.

---

1. CWP 1101 of 2001

R.M.Sharma

v.

N.J.P.C. and another.

2. CWP 1311 of 2001.

Manmeet Gupta

v.

N.J.P.C. and another.

---

*Coram*

The Hon'ble Mr.Justice Dev Darshan Sud, J.

*Whether approved for reporting?<sup>1</sup>*

For the Petitioner(s)      Mr. Shrawan Dogra, Advocate.

For the Respondents:      Mr. Ramakant Sharma, Advocate.

---

Dev Darshan Sud, J. (Oral) .

These two writ petitions are being disposed of by a common judgment as they involve common questions of fact and law.

The petitioner in CWP 1101 has approached this Court stating that he was eligible for being promoted from E-2 to E-3 Grade with effect from 1.1.2000, but the Departmental Promotion Committee which was held on

---

<sup>1</sup> *Whether reports of Local Papers may be allowed to see the judgment?*

9.2.2001 postponed his promotion with effect from 1.7.2000 and not from 1.1.2000. Similarly grievance has been made by the petitioner in CWP 1311 of 2001. The petitioner therein also claims that he was eligible for promotion to E-3 from E-2 category with effect from 1.1.2000, but has been promoted on 1.7.2000. A number of allegations have been made in the writ petitions regarding the conduct of the Departmental Promotion Committee. It is not necessary for me to consider those allegations, in view of the fact that the case of the petitioner is being allowed on the interpretation of the rules.

Promotion to the higher grades is governed by the Circular Annexure P-1 which has been filed with the writ petitions. Clause 8 deals with criteria for promotion to the next higher grade. Clause 8.1 and 8.1.1 which are relevant are reproduced hereunder:

"8.1 For Promotion from E1 to E2, E2 to E3 & E3 to E4 Level

8.1.1 Factors which are to be taken into account for determining the suitability for promotion of an executive in the above grades and the weightage thereof will be as under:

Factors

Maximum Points

Performance Appraisal	45
Ratings (for last 3 years)	
Grade Service	25
DPC	30"

It is not disputed before me that promotion is to be made when an employee has put in the minimum qualifying service and is eligible for such promotion. It is not dependent upon the vacancies. It is also not disputed that according to clause 8.2.3, the petitioners in both the petitions have attained the qualifying points for promotability which is 75.

Replies to the writ petitions have been filed by the respondents who have stated that the petitioners were considered for promotion from E-2 to E-3 Grade by the Departmental Promotion Committee recommending their promotion with effect from 1.7.2000. It is further stated that the Departmental Promotion Committee is competent to recommend promotion of employees with effect from 1<sup>st</sup> January and 1<sup>st</sup> July of each year. Such recommendations are based upon the qualification, appraisal report, grade service and interview etc. The respondents have submitted that only three cases from the Quality Control Department were considered by the

Departmental Promotion Committee and the promotion of the petitioners was recommended with effect 1.7.2000. Learned counsel has placed reliance on clause 9.1.1 to state that it is open to the Departmental Promotion Committee to recommend appointments from a particular date.

Both the petitions were heard for a considerable length of time, after which the record of the Department Promotion Committee was asked to be produced in Court to ascertain as to what were the reasons for postponing the promotions of the petitioners from 1.1.2000 to 1.7.2000, the date i.e. 1.1.2001 on which other promotions including that of Shri R.K.Jagota were made. I have perused the record of the Department Promotion Committee and find that there is no reason mentioned for deferring the promotions from 1.1.2000 to 1.7.2000. Shri Manmeet Gupta and Shri R.M.Sharma, petitioners in these writ petitions, have both been awarded 75 points each by the Department Promotion Committee which would make them eligible for being promoted to E-3 Grade. Shri R.K.Jagota, whose case was also considered out of the same meeting, has been awarded 76 points. The reason as to why the promotion

of the petitioners has been postponed to 1.7.2000 has not been recorded nor is it possible to ascertain it from the record. The promotions cannot be made subject to mere recording of a remark unsupported by any reason.

Under the circumstances, both the writ petitions are allowed. It is directed that the petitioners shall be treated as having been promoted with effect from 1.1.2000 from E-2 to E-3 Grade as Senior Engineers, Quality Control Department, with all consequential benefits of future promotion etc. There shall be no order as to costs.

May 31, 2007(PC) .

(Dev Darshan Sud), J.