

HARYANA STATE ELECTRICITY BOARD AND ANR.

v.

RAM GOPAL AND ANR.

MARCH 20, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Service Law—Promotion to the post of lineman—New promotion policy framed providing for promotion on seniority-cum-merit basis—Earlier policy reserved 15% quota for Assistant Linemen for promotion to the post of linemen—Held, new policy dispensed with the earlier reservation.*

Prior to 10.10.1988, 15% of the quota was reserved for the Assistant Linemen for promotion as Linemen on the basis of seniority. On 10.10.1988, "revised recruitment and promotion policy" was framed, wherein it was stipulated that the recruitment to the post of Linemen would be by promotion from amongst Assistant Linemen working in respective circles on seniority-cum-merit basis.

The respondents, who were Assistant Linemen, filed a suit which was dismissed by the Trial Court. The appellate court set aside the judgment and order of the trial court. The High Court dismissed the second appeal preferred by the appellant on the ground that policy dated 10.10.1988 was only in partial modification and not in suppression of the pre-existing policy.

Allowing the appeal, this Court.

**HELD :** For promotion from the post of Assistant Lineman to the post of Lineman, the criteria is seniority-cum-merit and the pre-existing policy of reservation of 15% quota to the Assistant Lineman with Matriculation with I.T.I. has been dispensed with. All promotions have been made on par and all linemen working in the circle are eligible for consideration for promotion in the respective circle on the basis of seniority-cum-merit. The revised policy is a complete code in itself and it did not leave any gap to be filled in by the pre-existing policy. [818-F-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4156 of 1995.

From the Judgment and Order dated 23.9.94 of the Punjab and Haryana High Court in R.S.A. No. 760 of 1994.

Ravindra Bana for the Appellants.

Manoj Swarup for the Respondents.

The following Order of the Court was delivered:

Leave granted.

Admittedly, the respondents were appointed as Assistant Linemen. Preceding October 10, 1988, the rule in vogue was that 15% of the quota was reserved for the Assistant Linemen for promotion as Linemen on the basis of the seniority. On October 10, 1988 a new promotion policy has been evolved in exercise of the statutory power called "revised recruitment and promotion policy" and the criteria has been laid down for promotion to the post of linemen.

Rule 1.3.1 provides thus:

"The recruitment will be by promotion from amongst Assistant Linemen working in respective circles on seniority-cum-merit basis. Their seniority will be on circle level basis as here-to-fore."

Thus, it could be seen that for promotion from the post of Assistant Lineman to the post of Lineman, the criteria is seniority-cum-merit and the pre-existing policy of reservation of 15% quota to the Assistant Lineman with Matriculation with I.T.I. has been dispensed with. All promotions have been made on par and all linemen working in the circle would be eligible for consideration for promotion in the respective circle on the basis of seniority-cum-merit.

The first appellate court and the High Court, therefore were in error in holding that the pre-existing right of the promotion with 15% quota to the Assistant Lineman for promotion to the post of Lineman continued, since the notification dated 10.10.1988 was only in partial modification and not in supersession of the pre-existing policy. That view is incorrect and the policy has not been properly appreciated as such. It is seen that the revised policy is a complete code in itself and it did not leave any gap to be filled in by any pre-existing policy.

Under these circumstances, we have no option but to allow the appeal and set aside the judgment and decree of the Punjab and Haryana High Court in R.S.A. No. 760/94 dated 23.9.94, confirming the judgment and decree of the appellate court. The judgment and decree of the trial court dismissing the Suit No. 1401, dated 21.9.92 stands upheld. In the circumstances, the parties are directed to bear their own costs throughout.

**B.K.M.**

**Appeal allowed.**