

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CWP No.16148 of 2013
Date of decision:13/03/2015

Kanwar Pal Singh

...Petitioner

Versus

Punjab State Power Corporation Limited and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. V.K. Shukla, Advocate for the petitioner.

Mr. R.L. Sharma, Advocate for the respondents.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J.

Through the present writ petition, the petitioner seeks quashing of order dated 11.9.2012 (Annexure P-3) whereby the claim of the petitioner to the grant of Promotional Increments on completion of 23 years of service has been rejected. The petitioner further prays for issuance of a writ in the nature of mandamus directing the respondents to grant the benefit of Promotional increments to the petitioner on completion of 23 years of service as per the policy of respondent-corporation and in view of the judgment of this Court dated 10.3.2009 passed in CWP No.17220 of 2007; Jasbir Singh v. The Punjab State Electricity Board and others.

The undisputed facts which have emerged from the record and after hearing the learned counsel for the parties at the bar are that on 13.11.1979, the petitioner was appointed as an officiating Lineman. Vide order dated 14.3.2009, he was promoted as Junior Engineer-II, a post from

which he retired from service on 28.2.2011. The petitioner submits that he has over 23 years of service with the respondent-corporation but in spite of the same, he has been denied the benefit of promotional increments to which he was entitled as per the policy of the respondent-corporation.

The case set-up by the respondent-corporation to non-suit the petitioner is that the next promotion of the petitioner from the post of Junior Engineer-II is to the post of Additional Assistant Engineer and the petitioner could not be promoted to the post of Additional Assistant Engineer as he had not passed the requisite departmental examination. Since the petitioner could not be promoted on account of his own fault, he was held not entitled to the promotional increments.

I have heard the learned counsel for the parties and perused the case file with their able assistance.

The only ground taken by the respondent-corporation to deny the benefit of the promotional increments after 23 years of service rendered by the petitioner in the respondent-corporation is the non passing of the prescribed departmental examination by the petitioner on the basis of which, he could not be promoted from the post of Junior Engineer-II to the post of Additional Assistant Engineer.

To meet this objection, learned counsel for the petitioner drew my attention to the office order dated 28.4.1998 issued by the respondent-corporation which is reproduced below for ready reference:

“ *PUNJAB STATE ELECTRICITY BOARD*
(ENG-II SECTION, PATIALA)

Office Order No.46/ENG-30(38)

Dated:28.4.98

The Punjab State Electricity Board is pleased to waive of the condition of passing the Departmental Accounts Examination for promotion JE-II to JE-I and LDC to UDC with the stipulation that

incumbent has completed 50 years of age irrespective of the fact that he has availed six attempts to clear the Departmental Accounts Examination. The other conditions as laid down vide memo No.87389/88289/ENG/G-398/Vol.III dated 13.5.83 in respect of JE's and office order No.639/REG-289 dt. 2.8.88 in respect of LDC's shall remain the same.

*Sd/- Secretary
Punjab State Electricity Board,
Patiala”*

A perusal of the above quoted order makes it clear that the condition of passing of Departmental Accounts Examination for promotion from the post of Junior Engineer-II to Junior Engineer-I (now Additional Assistant Engineer) has been waived of in the case of employees who have completed 50 years of age. In the case in hand, the date of birth of the petitioner is 14.2.1953 and he completed 50 years on 14.2.2003. That being so, as per the office order dated 28.4.1998, the condition of passing of departmental examination in the case of the petitioner would be deemed to have been waived of.

Thus, according to me, the above quoted office order clears the only hurdle between the petitioner and his entitlement for the grant of promotional increments on completion of 23 years of service.

My view finds support from a judgment of this Court rendered in the case of **Jasbir Singh v. The Punjab State Electricity Board and others**; CWP No.17270 of 2007 decided on 10.3.2009 wherein while considering a similar issue, this Court has held as under:

“The grievance of the petitioner is that he has not been paid the proficiency step on completion of 23 years of regular service. The claim of the petitioner is rejected by the respondents on the ground that the petitioner failed to qualify the Departmental Examination and thus he is not entitled to seek the benefit of policy on completion

of 23 years of service.

The petitioner has placed on record copy of office order dated 28.04.1998 (Annexure P-4) issued by the respondent-Board which inter alia provide the exemption from passing the Departmental Accounts Examination for promotion JE-II to JE-I and LDC to UDC for official of the Board who has completed 50 years of age irrespective of the fact that he has availed six attempts to clear the Departmental Accounts Examination. It is also admitted position that the petitioner completed more than 23 years of service and thus was exempted from qualifying the Departmental Examination envisaged under the Service Rules of the respondent-Board.

Learned counsel appearing for the respondents has argued that the petition is belated one. I am unable to accept this contention. The claim of the petitioner during service cannot be denied on these flimsy grounds. Otherwise also the petitioner retired on service from 28.02.2007 and the present petition has been filed in this Court on 12.11.2007. There is no delay in filing the petition.

In view of the clear policy decision of the respondent-State to exempt the incumbent who has completed 50 years of age from passing the Departmental Examination for seeking promotion/time bound benefit, the claim of the petitioner cannot be denied.

The petition is accordingly allowed. Respondents are directed to release all monetary and financial benefits to the petitioner and place the petitioner on next higher scale on completion of 23 years of service i.e. UDC scale and release all monetary/financial benefits within a period of three months from the date of receipt of certified copy of this order. The retiral benefits shall also be consequently revised and paid to the petitioner.”

I find the above quoted judgment to be fully applicable to the facts of the present case.

In view of the above, the writ petition is allowed and the respondents are directed to release all monetary and financial benefits to the petitioner and to place the petitioner on the next higher scale on completion of 23 years of service as per its policy and release all the payable

receipt of a certified copy of this order. The retiral benefits of the petitioner shall also be revised accordingly and paid to the petitioner.

**(DEEPAK SIBAL)
JUDGE**

**13.03.2015
rajeev**