

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

CWP No.4871 of 2012

Date of Decision : 26.2.2015

Sham Sunder

....Petitioner

Versus

Punjab State Electricity Board and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.SS Hira, Advocate
for the petitioner.

Mr. RL Sharma, Advocate
for the respondents.

MAHESH GROVER, J.

Petitioner prays for revised pensionary benefits.

The facts of the case would indicate that the petitioner joined service as Oil Cleaner with the Punjab State Electricity Board on 7.7.1993. In the year 1978 he was promoted as Sub-Station Attendant and as his service career progressed he was given the benefit of proficiency step up after 8 years of regular service on 1.12.1986. On 7.7.1989 he was given a similar benefit on completion of 16 years of service. On 16.6.2003 the petitioner

was promoted as SSO which he had forgone. On 13.6.2006 he made a representation seeking promotion and the process was initiated in this regard. But before it could culminate in actual benefit of promotion, the petitioner superannuated on 30.6.2009.

Just prior to his retirement on 5.6.2009 an order was passed seeking to effect recovery from the petitioner on the premise of an erroneous benefit having been given to him upon completion of 16 years of service, the primary reason being the petitioner's action in forgoing his promotion. This was challenged by the petitioner in CWP No.15143 of 2010 whereby the claim of the petitioner was accepted and the recovery order quashed.

The limited grievance which the petitioner now raises before this Court is that in the event of the recovery having been quashed the benefit accruing to him after completion of 16 years of service would stand revived and he would be entitled to revised pension upon re-fixation of pay by inclusion of this benefit.

The prayer is opposed by the learned counsel for the respondents that once the petitioner has forgone his promotion, he would not be entitled to any benefit under the ACP scheme. Besides, it is contended that the order of the writ court does not specifically direct the restoration of the benefit to the petitioner even though recovery has been quashed.

Upon hearing the learned counsel for the parties, I am of the view that the petitioner's grievance is justified. Even if the petitioner had forgone his promotion, the proficiency step up given to him could not have been withdrawn. That being the foundational position of law in terms of the judgment rendered by this Court in CWP No.15143 of 2010 coupled with the fact that the recovery already stands quashed, only irresistible conclusion can be that the benefit of proficiency step up given to the petitioner upon completion of 16 years service would stand restored to him and in which eventuality the respondents would be bound to take into consideration this component while assessing the pension of the petitioner.

The petition is accepted and the respondents are mandated to revise the pension of the petitioner by incorporating the benefit of monetary consequences which had accrued to the petitioner in the year 1989 after completion of 16 years of service. The needful be done as expeditiously as possible but not later than five months from the date of receipt of certified copy of this order.

Petition allowed.

26.2.2015
dss

(MAHESH GROVER)
JUDGE