IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 8672 of 2014

Date of Decision : August 04, 2015

Harpal Singh .... Petitioner

Vs.

Punjab State Power Corporation
Limited and another .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. S. S. Gurna, Advocate
for the petitioner.

Mr. Amit Aggarwal, Advocate
for the respondents.

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<u>DEEPAK SIBAL, J.</u> :

On 01.08.1985, the petitioner was appointed as an Internal Auditor with the respondent Punjab State Power Corporation Limited (hereinafter referred to as – the respondent Corporation) and on 30.09.1988, he was promoted as Revenue Accountant. Thereafter, on 13.01.1989, the petitioner passed his SAS Part I examination. As per the circular of respondent Corporation dated 15.02.1991, the petitioner was granted the benefit of time bound promotional increments on completion of 9 years and 16 years of service, on 02.07.2001 and 11.05.2005 respectively. Through order dated 27.03.2014 (Annexure P-7), the time bound promotional scales granted to the petitioner have been ordered to be withdrawn. It is this order, which has been challenged by the petitioner through the present writ petition.

The petitioner further prays for the issuance of a direction to the respondent Corporation to grant him the time bound promotional increment after 23 years of service, as per the applicable instructions.

I have heard learned counsel for the parties and with their able assistance, have also perused the entire record of the case.

It is not disputed that the time bound promotional scales granted to the petitioner after 9 years and 16 years of service have been ordered to be withdrawn through the order impugned by the petitioner, without giving any notice or opportunity of hearing to the petitioner. A perusal of the order further shows that the same can be termed as nothing but a non-speaking and unreasoned order. The impugned order, thus, cannot be sustained.

Even otherwise, the case of the petitioner is covered in his favour by the judgment passed by a Single Bench of this Court in **C. W. P. No. 13743 of 2011** – **Jaswinder Pal Singh vs. Punjab State Power Corporation Limited**, decided on **18.01.2012**, wherein it has been held as under :-

***"2.** The circular has been issued on 15.02.1991 which sets out the details of the scheme in supersession of the earlier instructions and set forth in Schedule-II. The relevant clause reads as follows :-*

Sr. No	***Post below on which direct appointment took place***	***Pay Scale***	***First time bound scale on completion of 9 years***	***First time bound scale on completion of 16 years***	***Special Remarks***
1.	*Internal*	*1800-3200*	*1800-3300*	*2000-3500*	*Internal Auditors who have passed SAS*
2.	*Revenue Accountant*	*1880-3300*	*2000-3500*	*2400-4250*	*Part I or passes the same shall be appointed Revenue Accountant in the scale 1800-3300, similarly those SAS Part I passed (except Internal Auditors), who specifically opt for revenue cadre shall be appointed Revenue Accountant. 9/16 year time bound increment scale shall be calculated after passing SAS Part-I and thereafter being present on the post of Revenue Accountant.*

***3.** The counsel contends that he was inducted as an Internal Auditor on 01.08.1985 and earned promotion as Revenue Accountant on 04.08.1988. For obtaining the higher scales for the first time bound scale on completion of 9 years, he was required to pass SAS Part-I and that he had passed while holding the post as*

Revenue Accountant in the year 1989. The counsel for the petitioner is prepared to concede that his entitlement to the higher scale on completion of 9 years could be reckoned from the time when he had passed SAS Part-I and 16 years to be worked out from the said date. I would reject an argument on behalf of the respondents that the petitioner had earned an increment within the first 9 years as Revenue Accountant even before he passed SAS Part-I and hence, he would not be entitled to the promotional scale. The instructions dated 15.02.1991 is on two parts: (i) the entitlement to a time bound scale after completion of 9/16 years after passing SAS Part-I and, (ii) he shall be present in the post as Revenue Accountant. I cannot see how the induction post as a Internal Auditor, who earned a promotion within the period of 9 years would become disentitled to claim the time bound scale on completion of the respective years by a bare reading of *the schedule which I have extracted above. The contention of the respondents defies the plain meaning of the words contained in the said schedule.*

4. *The impugned order is quashed and the respondents are directed to give the time bound scale on completion of 9 and 16 years in the post as Revenue Accountant from the time when he had passed the examination in SAS Part-I. On a due reckoning, the arrears shall be paid to the petitioner within a period of 8 weeks from the date of receipt of copy of this order.*”

An intra-court appeal filed against the above order being **L. P. A. No. 540 of 2012** – **Punjab State Power Corporation Limited and others vs. Jaswinder Pal Singh**, decided on **21.08.2012** was dismissed by a Division Bench of this Court by holding as under :-

“Though the circular dated 23.4.1990 contemplated the grant of promotional scale after 16 years of the first appointment if an employee has been promoted within 9 years of the direct recruitment but such condition stands

amended when the second circular is issued on 15.12.1991. The circular dated 15.12.1991 contemplates time bound increment scale after passing SSA Part-I examination after 9 and 16 years. Therefore, in terms of the conditions reproduced above, the writ petitioner is entitled to time bound increment scale after 9 years of the passing of SAS part-I in the year 1989. Therefore, there is no illegality in the order passed by the learned Single Judge.

No merit.

Dismissed.”

The above judgments fully cover the case of the petitioner in his favour.

No law to the contrary has been cited by learned counsel for the respondents.

So far as the time bound promotional scales after 23 years of service are concerned, the conditions for the grant thereof in the applicable instructions are as follows :-

“3. CONDITIONS FOR ADVANCE PROMOTIONAL INCREMENT

ON COMPLETION OF 23 YEARS SERVICE.

i) *He/She has the avenue of three promotions but has not earned three regular promotions in his/her regular service from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/ devised promotional scale.*

ii) *He/She has not earned third promotion in his/her regular service between 16th and 23rd years of service and is eligible for 3rd promotion irrespective of the pay limit.*

iii) *He/She has not been placed in a scale which is higher than the scale of his/her next higher post.*

iv) *The increment(s) are in the nature of advance promotional benefits to be absorbed in the next regular* *promotion.*

v) *Those who forego promotion shall not be entitled for this benefit.”*

It is not disputed by learned counsel for the respondent Corporation that the petitioner fulfills all the above conditions.

In view of the above, order dated 27.03.2014 is quashed and the petitioner is held entitled to the time bound increment scales after 9 years and 16 years of passing of the SAS Part I examination, cleared by him on 13.01.1989.

The petitioner is further held entitled to the grant of time bound promotional scales after 23 years of the passing of SAS Part I examination, with all consequential benefits. The arrears, after granting the petitioner benefit of time bound promotional scales after 23 years of service be released to him within three months of the receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

August 04, 2015
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