

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

**RSA No.4037 of 2010 (O&M)
Date of decision: 29.07.2015**

Punjab State Power Corporation Limited and another

....Appellants

Versus

Harbhajan Singh

....Respondent

CORAM: HON'BLE MRS. JUSTICE RITU BAHRI

Present: Mr. Sukhbir Singh, Advocate
for the appellants.

Mr. Ajay Pal Singh, Advocate
for the respondent.

RITU BAHRI J. (Oral)

The appellants-Punjab State Power Corporation Limited has come up in regular second appeal against the judgments of the trial Court dated 04.09.2008 and the Lower Appellate Court dated 23.04.2010 whereby the suit of the plaintiff, namely, Harbhajan Singh, Circle Assistant (retired) has been decreed for grant of 23 years promotional increments with effect from 01.01.1996.

The plaintiff joined the services with the appellant-Corporation on 11.12.1963 as Lower Division Clerk and he was promoted as Upper Division Clerk on 18.02.1990 and further

promoted as Circle Assistant and joined on 20.05.1997. The plaintiff was superannuated from the services of the Board as Circle Assistant on 30.04.2002.

As per the Finance Circular No.17/90 dated 02.04.1990 which was further amended vide Finance Circular No.20/90 dated 28.07.2000, the plaintiff is claiming 23 years promotional increment w.e.f. 01.01.1996. The plaintiff has not availed the 3rd promotion and he has never forgone his promotion during his entire career of service. No show cause notice or charge-sheet or any other inquiry was pending against the plaintiff at the time of his retirement.

Both the Courts below have recorded the fact that the suit of the plaintiff has been filed within limitation as grant of increment would effect the affixation of his salary and would also effect the recurring cause of action. The plaintiff has not been given the benefit as per Finance Circular Nos.17/90 and 20/90 on the ground that he did not fulfill the qualification of passing the examination which was essential for the promotion to the next higher post. The suit of the plaintiff has been decreed by making a reference to the case of Chaman Lal, Circle Assistant, who has filed a suit which was decreed by Additional Civil Judge (Sr. Division) vide order dated 19.11.2004 (Exhibit P-10) and the appeal of PSEB was dismissed by Lower Appellate Court (Exhibit P-11) and RSA No.4046 of 2005 was dismissed on 03.04.2006

(Exhibit P-12) and the Special Leave Petition i.e. SLP No.1486 of 2006, filed against this judgment was also dismissed on 01.04.2008. The judgment in the case of Chaman Lal has attained finality.

Learned counsel for the appellant has argued that the benefit of arrears should have been restricted to 38 months as the present suit has been filed by the respondent on 15.06.2006 and after his retirement on 13.04.2003.

On this point reference can be made to the judgment of this Court in ***“Satbir Singh vs State of Haryana”***, 2002 (2) SCT-354 and the judgment passed by Hon'ble Supreme Court in ***“Syndicate Bank and others vs Venkatesh Gururao Kurati”*** 2006 (2) RSJ-8 (Supreme Court), where it is held that the State is to grant relief to its employees who are similarly situated. The judgment of Chaman Lal has attained finality and in that case he had been promoted as Circle Assistant in the 20% quota but he was not granted 23 years promotional increment. In that case also the stand taken by the department is that he has not passed the departmental examination and in that case Chaman Lal was held entitled for promotional increment as per Circular No.17/90 w.e.f. 01.01.1996.

Without passing the departmental examination, he could not be de-barred from giving the benefit of 23 years promotional increment. The case of the respondent-plaintiff is

squarely covered by the judgment of Chaman Lal in which the arrears of salary has been given w.e.f. 01.01.1996.

No substantial question of law arises for consideration in this Regular Second Appeal (RSA). Hence, no case for modifying the judgment of the trial Court as well as Appellate Court is made out.

Dismissed.

(RITU BAHRI)
JUDGE

29.07.2015

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