

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

LPA-1017-2015(O&M)

Date of decision : 27.08.2015

Haryana State Electricity Board, Shakti Bhawan, Sector 6, Panchkula, District Ambala through its Secretary.

... Appellant

Versus

N.K.Jain and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr.Puneet Jindal, Senior Advocate
with Ms.Sakshi, Advocate
for the appellant.

REKHA MITTAL J.

The present appeal under Clause X of the Letters Patent has been preferred to assail the judgment dated 06.01.2015 passed by the learned Single Judge in CWP No.15916 of 1994 titled N.K.Jain and others Vs. State of Haryana State Electricity Board, Shakti Bhawan, Sector 6, Panchkula, District Ambala through its Secretary.

Though there is delay of 93 days in filing the instant appeal and the appellant has filed an application (CM-2122-LPA-2015) for condoning the said delay yet we have heard learned counsel for the appellant on merits.

As per the case set up by the respondents, they were initially appointed as Apprentice Junior Engineer vide order dated 14.07.1986 (Annexure P1) at fixed pay of ₹570/- per month plus allowances as admissible. As per condition of appointment incorporated in para 3 of Annexure P1, the writ petitioners-respondents were appointed as Junior Engineers (Trainee) in regular pay scale of ₹700-1250 with effect from 01.04.1987. Apprentice Junior

Engineers were later re-designated as Junior Engineers (Trainee). A batch of similarly situated Junior Engineers (Trainee) was appointed vide order dated 14.09.1989 (Annexure P5) on fixed salary plus usual allowances. On completion of training, they were appointed in the regular pay scale as per para 3 of Annexure P5. The appellant-Board took a decision to treat the period spent by the trainees of all categories as duty period for all intents and purposes including grant of increment vide communication dated 27.03.1991 Annexure P6, reiterated vide Annexure P7. They claimed notional benefit of annual increment with effect from first date of their appointment as Apprentice Junior Engineer i.e. 14.07.1986 and actual financial benefits may be released in their favour with effect from 29.01.1990 as decided by the appellant-Board vide policy decision (Annexure P6).

The learned Single Judge after taking into consideration the averments set up in para 12(ii) of the writ petition, terms and conditions contained in the appointment order Annexure P1 in respect of respondents and Annexure P5 of the Apprentice Junior Engineers appointed vide order dated 14.09.1989 coupled with the fact that as benefit of grant of increment by taking into consideration duty period of the 1989 batch as Apprentice Junior Engineers having been allowed in view of policy decision dated 27.03.1991, denial of such benefit to the respondents appointed in the year 1986 is discriminatory in nature and therefore, cannot be allowed to sustain. As a result, the respondents have been declared to be entitled for the similar benefit which has been granted to the next batch of Junior Engineers appointed vide Annexure P5 and further held that the period spent by the respondents on training shall be treated as duty period for all intents and purposes including for the purpose of grant of annual increments. However, the financial benefits

shall be granted only with effect from 29.01.1990.

Counsel for the appellant would submit that the learned Single Judge has committed a grave error rather illegality in equating case of the respondents with that of Apprentice Junior Engineers appointed in the year 1989 vide Annexure P5. It is urged that the Junior Engineers appointed vide order dated 14.09.1989 were appointed as Junior Engineers Trainee in regular pay scale on a date subsequent to 29.01.1990 with effect whereof the policy decision dated 27.03.1991 (Annexure P6) was given effect to.

We have heard counsel for the appellant and find no merit in the appeal.

Counsel for the appellant is not in a position to convince the Court as to how appointment of Junior Engineers in regular pay scale on a date which had fallen after 29.01.1990 can make a valid distinction between case of the respondents and the Junior Engineers appointed vide order dated 14.09.1989. As the respondents have been treated discriminatorily vis a vis Junior Engineers appointed in the year 1989 without any justification, we do not find any infirmity in the order passed by the learned Single Judge.

In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed in limine. No order as to costs.

(REKHA MITTAL)
JUDGE

(SATISH KUMAR MITTAL)
JUDGE

August 27, 2015.
Davinder Kumar