

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

LPA No.1667 of 2014 (O&M)
Date of decision: 30.07.2015

Punjab State Power Corporation Ltd. and another

...Appellants

Versus

Er. Sukhminder Singh Gill

...Respondent

Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Ms. Meena Bansal, Advocate
for the appellants.

Mr. V.K. Shukla, Advocate
for the respondent.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment and order dated 07.07.2014 passed by the Learned Single Judge, whereby, CWP No.14157 of 2013 filed by the respondent, seeking quashing of the order dated 08.07.2010 (Annexure P-4) cancelling the benefit of 23 years promotional increments granted to the respondent has been allowed.

The factual matrix giving rise to the present controversy is that the respondent joined the services of the appellant Corporation on 31.12.1976 as Lineman on regular basis. On 06.10.1981 he was promoted to the post of Junior Engineer-II which was re-designated

as Addl. Asst. Engineer. Vide order dated 27.01.2008, he was further promoted to the post of Asst. Engineer. On attaining the age of superannuation on 29.02.2012, he retired from service.

The appellant Corporation vide circular dated 23.04.1990 and 28.07.2000 extended the benefit of promotional scales and promotional increments to its employees on completion of 9/16 years and 23 years of services.

That while in service, the induction post of the respondent for the purpose of grant of the benefit of promotion scale and promotional increments was determined as JE-I/Additional Assistant Engineer. Counting his service from induction post of the Additional Assistant Engineer, from 06.10.1981, the respondent completed 23 years of service as on 05.10.2004. Resultantly, vide order dated 19.02.2008 passed by the appellant Corporation, the respondent was granted the benefit of 23 years promotional increments w.e.f. 06.10.2004. Accordingly, his pay was fixed in the then pay-scale of Rs.7750-14500 at the basic pay of Rs.11,750/- and the entry to this effect was made in his service book. The said grant of Promotional increments was verified by the then Accounts Officers (Field) PSEB, Faridkot as on 03.04.2008 the same was found correct and he used to get the enhanced pay.

Subsequently, after 2 years, appellant Corporation cancelled the benefit of promotional increment given on completion of 23 years of service on the ground that the respondent had not passed the Engineer Officer's Examination.

Aggrieved thereby, the respondent filed CWP No.14157 of 2013 which has been allowed. The Ld. Single Judge referred to the reply (Annexure P-6) given by the appellant to the notice of the respondent against the impugned withdrawal wherein it was stated:

"In respect of above subject, it is hereby informed that Para No. 1 and 2 are correct and the Induction Post shown as per Para No. 3 is incorrect, as in accordance with the proforma enclosed by the office, the Induction Post has been shown as that of JE-2. In accordance with Para No. 4, on raising objection by EAD, Patiala vide its letter No. 10317 dated 14.11.2008, the concerned employee of Accounts Branch of this office vide its letter No. 2651 dated 25.3.2010 wrote to Accounts Officer, Faridkot that the retired officer mentioned under subject (Er. Sukhminder Singh Gill) did not pass Departmental Examination, whereas, now after perusal of the service book of the employee, it has come to notice that the retired officer (Er. Sukhminder Singh Gill) had passed papers in the month of 3/02 and 9/02 and the reply of Para no. 5, 6 and 7 is in accordance with reply of Para No. 4. With regard to Para Nos. 8 and 9, on perusal of personal file of retired officer, it has been found that the retired officer has not raised demand for granting 23 years benefit again after cancellation of the same."

The Ld. Single Judge concluded that as per the reply it was clear that the respondent had passed the departmental examination in March 2002 and September 2002. Therefore, the order (Annexure P-4), which was passed on the assumption that the the respondent had not passed the Engineer Officer's examination was set aside.

Ld. Counsel for the appellant has argued that the Ld.

Single Judge has erred in allowing the writ petition based on the reply of the appellants to the notice of demand. He argues that no doubt in the said reply it has been mentioned that the respondent has passed papers in the month of 3/02 and 9/02, but these papers are engineer subordinate papers. Whereas for availing the benefit of 23 years promotional increment, the employee is required to pass the Engineer Officers Grade papers as per the Finance Circular No. 17/90 and Finance Circular No. 20/2000 (Annexures P-1 and P-2 respectively.)

We are unable to agree with the arguments of the Ld. Counsel for the appellant. In the reply (Annexure P-6) to the demand notice of the respondent which has been relied upon by the Ld. Single Judge while noticing the objection mentioned in the order (Annexure P-4) that the respondent had not passed the Departmental Examination, it has been stated that after perusal of the service book of the respondent it has come to notice that he had passed papers in the month of 3/02 and 9/02. In the face of this admission and in light of the earlier grant of the time bound promotional increment which was verified by the then Accounts Officers (Field) PSEB, Faridkot as on 03.04.2008 and the same was found correct, there does not appear to be any justice in the stand of the appellants to needlessly persist with their claim that the promotional increment was wrongly given to the respondent as he had not passed the departmental examination.

We find no justification for the same. Accordingly this

appeal is dismissed with costs of Rs10,000/- to be deposited with Punjab State Legal Services Authority.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

July 30, 2015
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