

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 3707 of 2012 (O&M)

Date of decision: 21.08.2015

Raghubir Singh

...APPELLANT

VS.

Punjab State Electricity Board and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. V.K.Shukla, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgments and decree passed by the Courts below, vide which the suit for declaration to the effect that the appellant-plaintiff is entitled to the benefit of 23 years promotional increments as per the Financial Circular No. 20/2000 issued by the respondents-Punjab State Electricity Board (now Punjab State Power Corporation Limited) vide office order dated 28.07.2000 and for a mandatory injunction directing the respondents-defendants to make payment of arrears of increments and other benefits w.e.f. 01.0.1996, stands dismissed and the appeal against the same by the Additional District Judge, Moga vide judgment and decree dated 16.05.2012, also stands dismissed.

It is the contention of the counsel for the appellant-plaintiff that a similarly placed employee, namely, Jasvir Singh, who also joined as a Lower Division Clerk on 13.07.1971, has been granted the benefit of the

said circular, whereas the appellant, who was appointed as a Lower Division Clerk on 20.01.1971, has been denied the said benefit. He, on this basis, contends that the judgments passed by the Courts below having not taken this aspect into consideration cannot be sustained. His further contention is that he is not being placed in a higher scale than the scale of his next higher post as the pay scale of ₹ 5,900-10,000/- was only a conversion of the pre-revised pay scale of ₹ 1640-2925/- and the ground for rejecting his claim that he has already been placed in a higher pay scale than the pay scale of his next higher post, thus, cannot sustain. His further contention is that as per the Circular No. 20/2000, the appellant is eligible for the grant of the said benefit, which has been denied to him. The appeal, therefore, deserves to be allowed and the judgments passed by the Courts below set aside.

Having considered the submissions made by the counsel for the appellant-plaintiff, this Court is of the opinion that the assertions of the counsel for the appellant cannot be accepted.

Circular No. 20/2000 issued by the respondents-defendants Board clearly specify certain conditions, as envisaged in the earlier Circular dated 09.11.1999, which granted the benefit of promotional increments to an employee on completion of 23 years of service. The same are as follows:-

“(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.

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

(iv) The increments 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 to this benefit.”

Clause (iii), referred to above, goes against the appellant-plaintiff as he has been placed in a scale, which is higher than the scale of his next higher post, does not entitle him the benefit, as has been claimed by him. The contention of the counsel for the appellant-plaintiff cannot be accepted as it has been clearly observed in the judgments passed by the Courts below especially the Lower Appellate Court, where in para-13, it has been held as follows:-

“13. Trial Court has rightly held that bare glance at circular No. 20/2000 reveals that in order to become eligible to get service benefits of 23 years of service, it is one of the requirement that he or she has not been placed in scale which is higher than scale of his/her next higher post. This fact is not disputed that on 1.1.1996 the plaintiff was getting scale of ₹ 5,900-10,000/- and from 7.4.2000 the plaintiff was promoted as UDC in the scale of ₹ 4,600-7,250/- which is lower than time bound scale of ₹ 5,900-10,000/-. It has thus, rightly held that due to this, the plaintiff is not entitled to benefit of 23 years of service as per circular No. 20/2000.”

The contention of the counsel for the appellant that the scale,

which has been granted to him i.e. ₹ 5,900-10,000/- w.e.f. 01.01.1996 was a conversion of pre-revised scale of ₹ 1640-2925/- cannot be accepted especially when on 07.04.2000, the appellant-plaintiff was promoted as UDC, for which the scale, as per the revised scale, was ₹ 4,600-7,250/-, which obviously is lower than the time bound scale of ₹ 5,900-10,000/-, which the appellant-plaintiff was drawing.

The contention, as has been raised by the counsel for the appellant-plaintiff that one Sh. Jasvir Singh has been granted the benefit of Circular No. 20/2000 although he is similarly placed to the appellant-plaintiff vide order dated 30.09.2009 (Ex. P-56) and 01.02.2010 (Ex. P-57) and the same has been incorporated in his service book and arrears also paid, cannot be accepted. If some wrong benefit has been granted to an employee, who may be similarly situated as the appellant-plaintiff, that would not confer any right upon the appellant-plaintiff if he is not entitled to a benefit as claimed, as per the Statutory Rules/Instructions.

Article 14 of the Constitution, which grants the right of equality, cannot be pressed into service to the extent of absurdity where even illegalities can be asserted as a ground for granting the same benefit and in any case, the Courts cannot be a party to an illegality and to perpetuate it. The same benefit cannot be claimed and cannot be granted by the Court.

Finding no merit in the present appeal, the same stands dismissed.

August 21, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE