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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 12556 of 2011 (O/M)
Date of decision : 9.11.2016

Khairati Ram Rabra Petitioner (s)

Versus

Punjab State Electricity Board and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sapan Dhir, Advocate, for the petitioner.

Mr. Kunal Mulwani, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner-Khairati Ram Rabra, who retired from service on 31.7.2001 as a Chief Auditor, Punjab State Electricity Board (as it was then), has impugned the order dated 28.6.2011 (Annexure-P-15), vide which his claim for placing him in the revised pay scale of Rs. 18600-23100 with effect from 1.1.1996 equivalent to that of Chief Engineer, has been declined. The petitioner seeks mandamus to place him in the said scale and accordingly re-calculate the consequential benefits and pay him the same.

Suffice to say that the petitioner was working as a Chief Auditor in Punjab State Electricity Board. Apparently, there are two wings; one is Engineering and the other is Accounts. In the Accounts wing, there are four wings i.e. Accounts, Finance, Audit and Cost. The petitioner was working on the cadre post as a Chief Auditor. The petitioner claims that he being the senior-most in the Accounts Branch should be granted the pay

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scale, which is given to the Chief of the Engineering Wing. The Punjab State Electricity Board passed the order dated 27.2.1991 (Annexure-P-4) wherein the senior-most Head of the Department on the Accounts side (cadre and ex-cadre posts) shall be placed in the scale of Chief Engineer. The operative part of the order is reproduced as under :-

“The Senior Most Head of the Department on the Accounts side (Cadre and Ex-Cadre Posts) shall be placed in the scale of the Chief Engineer i.e. Rs. 5900/7100 while the other officers shall continue in the scale of Rs. 4500/6300. The upgradation of one post shall not mean any increase in total number of posts.”

Subsequently, vide another order dated 13.3.1991 (Annexure-P-5), the words 'Heads of the Department' were substituted with the word 'Officer'. The petitioner made a representation somewhere in the year 2000 (Annexure-P-8), claiming the benefit of said order dated 27.2.1991 (Annexure-P-4) and claimed that being the senior-most in the accounts cadre, he should be granted the scale of Rs. 5900-7100 by upgrading one more post in the cadre.

It comes out that in the Board Meeting held on 24.1.2001, it was decided by the Secretary, Punjab State Electricity Board, Patiala, to put up the matter before the Board, seeking approval for increase in the number of posts of senior-most head of department on accounts side for grant of pay scale equal to that of Chief Engineer from one to two – one each for cadre post and another for ex-cadre post. The said memorandum was approved by the Board in its meeting held on 12.2.2001, vide Annexure-P-10. The relevant extracts of the same are under :-

“The Board approved the Memorandum in Principle. However the Board authorized the Member/F and A and Chairman to

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decide as to whether the post to be given scale of Chief Engineer, shall be an ex-cadre post or cadre post.”

The petitioner thereafter made another representation (Annexure-P-11), claiming that being the senior-most person in the existing accounts cadre, he should be granted higher pay scale of Rs. 18600-23100. The petitioner retired from service on 31.7.2001 as a Chief Auditor and none of his representations were decided.

It comes out that after the retirement of the petitioner one Subhash Arora, Chief Cost Control and Reduction Officer, PSEB, Patiala, who was from the ex-cadre post, being the second senior-most officer, was granted the pay scale of Chief Engineer (Rs. 18600-23100) on 5.10.2001 (Annexure-P-12 Colly). It is stated that thereafter Shri R.D. Vohra, who was junior to the petitioner was also granted the said scale after the retirement of the petitioner, vide noting dated 19.11.2003 (Annexure-P-13 Colly.). It comes out that since the petitioner was not granted the said scale, he filed CWP No. 7128-2011, which was disposed of by this Court on 26.4.2011 with a direction to decide his representation. Consequently, the order dated 28.6.2011 (Annexure-P-15) was passed, declining the said relief on the ground that the petitioner had already retired from service on 31.7.2001 and that there is delay and laches in making the representation and also that the final decision regarding the said recommendation was not taken during the service of the petitioner.

In the reply also, the respondents have taken the stand that the final decision was taken in October, 2001 and the petitioner had retired from service on 31.7.2001. Therefore, he could not be granted the said scale.

I have heard the learned counsels for the parties and have also carefully gone through the file.

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The operative part of the order dated 27.2.1991 (Annexure-P-4), reproduced above, shows that it was decided to grant higher scale to the senior-most head of the department on the accounts side. The petitioner had made the claim to the post for the first time in the year 2000, claiming that he is now the senior-most in the department and should be granted the said higher scale. It also comes out that after the retirement of the petitioner, the same benefits were extended to one Shri S.C. Arora, who was in ex-cadre post. The plea has been taken in the written statement that one Shri A.K. Aggarwal, Chief Auditor, cadre post, was already enjoying the pay scale equivalent to that of the Chief Engineer. Therefore, the same could not be given to the petitioner. The decision for giving the scale of Chief Engineer from one to two i.e. one for cadre post and another for ex-cadre post was decided in the Meeting of the Board, held on 12.2.2001. No conclusive decision was taken. However, the date of retirement of said Shri A.K. Aggarwal was not mentioned in the reply.

In order to see whether the petitioner was senior-most before his retirement, one is to look into the noting dated 20.4.2001 regarding placement of the senior-most head of department on the accounts side i.e. Chief Auditor, which is to be granted the scale equivalent to that of Chief Engineer. The noting dated 20.4.2001 shows that when the matter was considered, Shri S.C. Arora, Chief Cost Control and Reduction Officer, PSEB, Patiala, who was of the ex-cadre post, was at Serial No. 1 and the petitioner, who was on the cadre post, was at Serial No. 2. In the same noting it is mentioned that at that time Shri A.K. Aggarwal, the then Chief Auditor was working on the ex-cadre post, meaning thereby that the cadre post was available for grant of scale equivalent to that of Chief Engineer.

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The petitioner kept on making the representations till his retirement, which were never decided and it was only on the intervention of this Court that the representation was decided. It being so, the petitioner, who was holding the senior-most cadre post, was entitled to the scale equivalent to that of the Chief Engineer from the date he became senior-most Chief Auditor in the cadre post. Thus, the present writ petition is allowed. The order dated 28.6.2011 (Annexure-P-15) is hereby quashed. The respondents are directed to grant the pay scale of Rs. 18600-23100 i.e. of Chief Engineer from the date he became senior-most Chief Auditor in the cadre post. Consequently, his retiral benefits are also to be revised and released to him. The petitioner shall also be entitled to interest at the rate of 9% per annum from the date he became entitled to the said arrears till the date of payment. The respondents are directed to pass necessary orders and release the arrears within two months from the date of receipt of certified copy of this order.

The present writ petition is allowed.

(KULDIP SINGH)
JUDGE

9.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No