

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

CWP No.18443 of 2011 (O&M)

Date of Decision: 29.04.2016

Ramesh Kumar

... Petitioner

Versus

PSPCL and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. M. S. Kang, Advocate for the petitioner

Ms. Meena Bansal, Advocate for the respondents

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

An amalgamated reading of the terms of offer of appointment dated 16th November, 1993 (Annex P-1) and the contents of letter No.2350 dated 2nd November, 1993 would inevitably indicate that the petition deserves to be dismissed and the claim made in the petition for further promotion under the Sports quota rejected. Annex. P-1 is silent on the word “promotion” and speaks only of “appointment”. That order was passed with the specific note added to its heading that it was issued in continuation of letter No.2350 dated 2nd November, 1993 of the Secretary/Sports, Patiala which is none other than document Annex.R-1 produced by the respondents but not the petitioner. Annex. R-1 confirms

that the petitioner was approved for promotion [reserved sports quota-Football] from the post of RTM to the higher post of Lineman on the basis of sports gradation which qualified him for out of turn promotion. The result of it would also be that the petitioner would be barred from seeking further out of turn promotion to still higher post and would instead have to wait for promotion as per his turn according to his seniority position in the feeder category, secured by accelerated promotion as a sportsman.

Learned counsel for the petitioner contends that the sports policy of the respondent Punjab State Electricity Board/PSPCL prescribes on getting first promotion on the basis of sports performance, the next promotion would be considered only after a gap of three years. However, this condition will not apply for achievements made in Grade-`A'.

Per contra, learned counsel for the respondents refers to Clause (4) of the Sports Policy for Recruitment, Promotion, Grant of Incentive and other Facilities to refute the claim. The Clause reads as under:-

“4)Provision for promotion:

The sports person who fulfils the below mentioned conditions shall be considered for out of turn promotions and this scheme shall be applicable only in the non-gazetted ranks/categories. There will be no promotion in the gazetted rank/cadre on the basis of sports performance at any level. No sports persons shall be eligible for more than two out of turn promotions on the basis of sports performance in his/her sports career.

Those sports persons who have already got two

promotions on the basis of such performance shall be debarred from any out of promotion in future.”

On the perusal of the policy instructions, it is manifest that sportspersons will be eligible only for two out of turn promotions on the basis of sports performance in his sports career and those sports persons who have already earned two promotions on the basis of such performance shall be debarred from any out of turn promotion in future. It is not disputed that the petitioner was recruited as RTM against sports quota in 1991 and was promoted as Assistant Lineman in 1993 and on the same day as Lineman (Non-Gazetted).

Mr.Kang submits that there should be a gap of three years between the two promotions, and therefore, his second promotion as Lineman should have been given after 1993 i.e. in 1996. The policy instructions he submits enjoy statutory status.

However, the sports policy in the considered view of this Court does not qualify as statutory rules of service or their replacement by their very nature. It does not mean that the policy does not have to be adhered to and all it says is that in case where sportsperson has taken advantage of second promotion although simultaneously with the first promotion then no room is left for the third from sports quota category. It would be wholly inequitable to interpret the gap of three years to the advantage of the petitioner since it may result in withdrawing the promotion as Lineman and postponing his second promotion to a period of three years thereafter. When he willingly accepted double promotion then it does not lie easily in the mouth to treat them as one promotion and ask confirmation from employer or Court. He took both of them with open eyes and made no bones about it.

Lastly, Mr.Kang, learned counsel for the petitioner raises an argument in the extreme that there is no order promoting the petitioner as a Lineman. If this argument is taken to its logical end, it would result in reaching the same destination by a different road, which might entail withdrawing of his promotion as Lineman leaving the petitioner as an Assistant Lineman in 1993. And then asking for a mandamus in 2011 to the respondents to now pass an order promoting him out of turn as a Lineman with retrospective effect after 1993 which status and pay he has enjoyed for a long twenty three years as on today and seventeen years on the date of the petition. The object of the exercise in this convoluted reasoning is to make way for the petitioner for further promotion, a step higher than Lineman, by treating it as the first out of turn promotion for further out of turn promotion. I must say this is very strange logic and line of reasoning adopted by the ingenuity of Mr. Kang but the Court is not prepared to accept it and grant relief based on such a facile assumption. Therefore, I find no ground to interfere in this matter.

For the foregoing reasons, I find no merit in this petition which is accordingly hereby dismissed.

29.04.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE