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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18404 of 2014 (O/M)
Date of decision : 2.8.2016

Krishan Lal Batra

..... Petitioner (s)

Versus

Punjab State Power Corporation Limited and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anish Batra, Advocate, for the petitioner.

Mr. Y.P. Khullar, 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, who was working as a Revenue Accountant in the respondent-department, retired from service on 31.7.2011. After his retirement from service, he has filed the present writ petition for quashing the impugned order dated 21.8.2014 (Annexure-P-6), vide which his plea to allow him to exercise revised option with effect from 1.1.2006, was declined on the ground that the option once exercised shall be final. The petitioner further seeks a writ of mandamus that he should be given right to furnish revised option with effect from 19.7.2006, instead of 1.1.2006 under the second proviso of Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009, read with office order No. 906 dated 22.6.2011.

The short controversy involved in the present writ petition is that a Finance Circular No. 15/2009 was issued on 15.10.2009, whereby

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while implementing the revised pay scales, the existing employees were asked to exercise option under Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009 as to whether they want to draw pay in the revised pay structure applicable to the post to which he is appointed. The petitioner accordingly exercised the option in the year 2009 itself, stating that he opts for revised pay scales with effect from 1.1.2006. Now, the petitioner seeks to revise the option with effect from 19.7.2006, claiming that under the second proviso to Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009, he can exercise the option from the date of his promotion. In this case, the promotion orders (Annexure-P-1) were issued on 22.6.2011, whereby he was given first time bound promotion on completion of 9 and second time bound promotional scale was given on completion of 16 years of service.

The Board has taken the stand that the option once exercised is final as per Regulation 6 (2) of the Finance Circular No. 15/2009, dated 15.10.2009 and cannot be revised at this stage.

I have heard the learned counsel for the petitioner, the learned counsel for respondents and have also carefully gone through the file.

The Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009, is reproduced as under :-

“5. Drawal of pay in the revised pay structure- Save as otherwise provided in these Regulations, a Board employee shall draw pay in the revised pay structure applicable to the post to which he is appointed ;

Provided that a Board employee may opt to continue to draw pay in the existing scale, until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale ;

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Provided further that in cases where a Board employee has been placed in higher pay scale between 1.1.2006 and the date of notification of these Regulations on account of promotion, upgradation of pay scale under the Assured Career Progression Scheme, Time Bound Promotional/Devised Promotional Scales, or otherwise, the Board employees may elect to switch over to the revised pay structure from the date of such promotion, upgradation etc.”

The petitioner seeks the benefit of second proviso of Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009. The perusal of the said proviso shows that the employees, who have been placed in higher pay scale between 1.1.2006 and the date of notification of these Regulations may elect to switch over to the revised pay structure from the date of such promotion, upgradation etc. The plea of the petitioner is that since he has been placed in higher pay scale on completion of 16 years of service, vide order dated 22.6.2011 (Annexure-P-1), therefore, now he should be allowed to exercise fresh option.

I am of the view that the reading of the of the Finance Circular No. 15/2009, dated 15.10.2009 shows that it pertains to the order passed between 1.1.2006 and the date of notification. Under the first proviso to Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009, the employee has the option to continue to draw pay in the existing scale, until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale. The option exercised by the petitioner was unconditional. He never exercised conditional option that in case he is placed on higher pay scale on account of being placed in the higher pay scale after completion of 9 and 16 years of service, he shall have right to exercise fresh option. As per

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Regulation 6(4) of the Finance Circular No. 15/2009, dated 15.10.2009, the option once exercised shall be final and cannot be revised. Since there was no option to revise the option, therefore, the petitioner cannot be allowed to exercise fresh option in view of order dated 22.6.2011 (Annexure-P-1).

The present petition is accordingly dismissed.

(KULDIP SINGH)
JUDGE

2.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No