

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

**CWP No. 3496 of 2014**

**Date of Decision: 19.09.2016**

***GULAB SINGH***

***... Petitioner***

***Vs.***

***PUNJAB STATE POWER CORP LTD & ORS***

***..Respondents***

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Sharwan Sehgal, Advocate,  
for the petitioner.

Mr. R.L. Sharma, Advocate,  
for the respondents.

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**KULDIP SINGH, J. (Oral)**

The petitioner by way of this writ petition has challenged the order No. 82 dated 22.04.2013 (*Annexure P-1*) passed by the respondent No. 2 for recovery of ₹ 13,36,533/- from the petitioner. The petitioner also challenges the appellate order dated 26.11.2013 (*Annexure P-3*) rejecting the appeal. He further prayed for issuance of writ of mandamus to pay all the pensionary benefits including GPF, DCRG, gratuity, leave encashment etc. alongwith interest @ 18% per annum.

Suffice to say that the petitioner joined his services in Punjab State Electricity Board on work charge basis and his services were regularized as Assistant Lineman on 27.05.1979. During his service, on account of a complaint being received, inquiry was conducted against the petitioner. It was alleged against the petitioner that his actual date of birth is 01.06.1944 and that he had filed an affidavit of his elder brother who mentioned the date of birth of the petitioner as 12.10.1958. When the inquiry was in process, the petitioner

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appeared before the inquiry committee wherein on 21.12.2011, he made an oral statement stating that as per the certificate dated 19.12.2011 issued by the Principal, Senior Secondary School, Gujjarwal, District Ludhiana, his date of birth is 01.06.1944 and he may be retired in accordance in respect of the said date. Accordingly, the petitioner was retired from service vide order dated 22.04.2013 (*Annexure P-1*) w.e.f. 31.05.2002 and accordingly, the salary received by him during the said intervening period (01.06.2002 to 31.12.2011) is to be recovered from him.

Learned counsel for the petitioner has relied upon two authorities i.e. **State of Bihar and Others Vs. Pandey Jagdishwar Prasad ; 2009(2) SCT 161:** passed by the Hon'ble Supreme Court of India and judgement passed by this Court in **CWP No. 14223-CAT of 2007 dated 12.09.2007** titled as **Union of India Vs. Parkash Chand and others,** which shows that in the said cases there was a fault on the part of the department. But herein, in this case, the petitioner has mis-represented and filed false affidavit regarding his date of birth and later on it was found that the date of birth of the petitioner was 01.06.1944 and as per his request, he was retired from service in accordance with the said date of birth.

Learned counsel for the petitioner has contended that he does not claim the salary for the period after 31.05.2002 and the recovery may be effected from his dues. However, he has prayed that nothing has been paid to him and his work charge service has not been counted for the purpose of the retiral benefits.

In the circumstances, it is held that the order of recovery of arrears of salary after 31.05.2002 till he has actually worked in the respondent department is justified. However, at the same time the respondents are directed

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to count the work charge service of the petitioner as a qualifying service for the purpose of pension and by taking his date of retirement as 31.05.2002 and release all the pensionary benefits after deducting the amount recoverable from him vide impugned order dated 22.04.2013, if not already paid.

The petition is accordingly disposed of.

September 19, 2016  
Suresh Kumar

[ KULDIP SINGH]  
JUDGE

|                                    |            |           |
|------------------------------------|------------|-----------|
|                                    | ✓          |           |
| <i>Whether speaking / reasoned</i> | <i>Yes</i> | <i>No</i> |
|                                    |            | ✓         |
| <i>Whether Reportable</i>          | <i>Yes</i> | <i>No</i> |