

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

CWP No.5835 of 2016

Date of Decision:30.03.2016

Om Parkash Sharma

.....Petitioner

Vs.

Haryana Vidyut Parsaran Nigam Ltd. (HVPNL) and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL

Present:- Mr. Jaspal Singh Maanipur, Advocate for the petitioner.

DEEPAK SIBAL, J.(Oral)

After hearing counsel for the petitioner and perusal of the records of the case with his assistance, the uncontroverted facts which have emerged are that the petitioner was appointed as a Lower Division Clerk in the erstwhile Haryana State Electricity Board (Now, the respondent HVPN). For further promotion to the post of Upper Division Clerk, passing of a departmental examination was prescribed which the petitioner passed on 9.7.1976 and as a consequence thereof on 30.11.1976, he was promoted as Upper Division Clerk. Thereafter on 17.8.1988, the petitioner was further promoted as Assistant, the post from which on 30.11.2000 he superannuated.

Juniors to the petitioner who passed the departmental examination later than him were promoted in preference to him, both as Upper Division Clerks and Assistants and aggrieved by such action, the petitioner made a representation to the respondents on the rejection of which he approached this Court through CWP No.8972 of 2009 - Om Parkash

Sharma v. Haryana Vidyut Parsaran Nigam Limited, which through order dated 3.4.2014 was allowed by a learned Single Judge of this Court by holding as under:-

“The date of joining of the petitioner and the seniority vis-a-vis his juniors, namely, G.N. Pandey and Virender Kumar Vaid in HSEB has not been disputed by learned counsel for the respondents. It is also not disputed that the petitioner passed his departmental examination on 9.7.1976 and his juniors, namely, Sh. G.N. Pandey and Virender Kumar Vaid passed said test on 25.7.1978 and 23.3.1979, respectively. The claim of the petitioner has been considered and has been allowed w.e.f. 9.9.1988 only, whereas, juniors to the petitioners were granted the same benefit from 20.12.1978 and 27.6.1979. There is nothing on record to show that subsequently on bifurcation any option was sought or any seniority was to be prepared by the Nigam concerned but the benefit was given on the basis of joint seniority list. It has also not been disputed that Sh. G.N. Pandey and Virender Kumar Vaid are juniors to the petitioner. The only dispute is whether the petitioner is entitled for the relief from the date of passing of the departmental examination or from the date of confirmation. Since other employees who were juniors to the petitioner have been granted benefit then the petitioner being senior is also entitled from the date his juniors were granted benefit.

Accordingly, the present petition is allowed and impugned order dated 8.1.2009 (Annexure P-3) is set aside and the respondents are directed to grant the benefit from the

date his juniors, namely, G.N. Pandey and Virender Kumar Vaid have already been granted. The necessary exercise be done within a period of two weeks from the date of receipt of a certified copy of the order. However, the petitioner will be entitled for the arrears for a period of three years and two months before filing of this petition.”

A perusal of the afore-quoted order shows that though the petitioner was granted the benefit of seniority from the date his juniors had been promoted, arrears were restricted to three years and two months prior to the date of filing of that petition.

Learned counsel for the petitioner submitted that in compliance with the afore-quoted order though the petitioner was granted the benefit of seniority and fixation of pay but no arrears were given. It was submitted that as the petitioner had retired on 30.10.2000 and that the afore-referred writ petition had been filed in the year 2009, there was no question of grant of arrears of pay. However, it was submitted that arrears with regard to his retiral benefits should have been given to him and that too from the date of his retirement and not limiting them to 38 months prior to the filing of that petition.

Thus, learned counsel for the petitioner submitted that the arrears of pension, after giving to the petitioner, the benefit of the above-quoted judgment of this Court have wrongly been restricted to 38 months prior to the filing of that petition.

After considering the aforesaid submission made by the learned counsel, I feel that the prayer made by him to grant the petitioner enhanced pension after giving him the benefit of the afore-quoted judgment from the

date of his retirement and not to limit the same to 38 months prior to the filing of the earlier writ petition, referred above, cannot be granted to him through the present petition as that, in my opinion, would amount to reviewing/clarifying the afore quoted order.

In view of the above, the present petition is disposed of while giving liberty to the petitioner to move an appropriate application to seek review/ clarification/ modification of the order dated 3.4.2014 as quoted above.

March 30, 2016
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(DEEPAK SIBAL)
JUDGE