

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

Date of Decision: 3.4.2017

1.CWP No.17575 of 1997 (O&M)

The Additional Superintending Engineer (previously Executive Engineer),
Sub Urban Division, Punjab State Electricity Board, Pathankot.

... Petitioner

Versus

The Presiding Officer and another

...Respondents

2.CWP No.2196 of 1999 (O&M)

PSEB

... Petitioner

Versus

General Secretary/President R.K.Menon Associates and another

...Respondents

3.CWP No.15097 of 1998 (O&M)

PSEB

... Petitioner

Versus

Presiding Officer Industrial Tribunal, Punjab, Chandigarh & Anr.

...Respondents

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

Present: Ms. Meean Bansal, Advocate for the petitioner(s) in
CWP No.2196 of 1999

Ms.Jarnail Kaur Dhaliwal, Advocate for petitioner in
CWP No.15097 of 1998

Mr.S.C.Pathela, Advocate for respondent in
CWP No.2196 of 1999

Mr.Sushil Saini, Advocate for respondent no.2 in
CWP No.175775 of 1997

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of CWP Nos.17575 of 1997, 2196 of 1999 and 15097 of 1998 as common questions of law and facts are involved which can be decided by a single order.

2. It is past cavil that ad hoc service cannot count for grant of time bound promotional scale and proficiency step up benefit. This Court was conscious of refund while declining stay of operation of the award by interim order dated 18th February, 1998 passed in CWP No.17575 of 1997 which was followed in other connected matters, when directing the respondent Management to give the benefits as awarded after counting ad hoc service as directed by the Labour Court. Therefore, by this order, the respondents have availed the benefits, but the interim order was made subject to the success or failure of the writ petitions and in that eventuality, the Board was entitled to recover the benefits from the workmen being paid under interim directions. It appears to me that this direction was issued in the light of the prevailing law enunciated by the Full Bench of this Court in Rakesh Kumar Singla vs. State of Haryana, (1995) 111 PLR 411 decided on 21st July, 1995 when ad hoc service could bring such benefits. However, the majority view taken by this Court in the Full Bench decision was over-ruled by the Supreme Court in State of Haryana vs. Haryana Veterinary and AHTS Association, (2000) 8 SCC 4 holding that ad hoc service would not inure towards benefit of time bound promotional scale and proficiency step up for which regular satisfactory service is required. The law is by now settled against the employees.

3. While allowing the writ petitions 2 & 3 above filed by the PSEB/PSPCL and setting aside the impugned awards this Court may have to look to the long passage of time of almost two decades and hence, at this

last sentence of the interim order dated 18th February, 1998. Permitting recovery rights today would entail undue hardship and create a situation which has been taken care of by the Supreme Court in State of Punjab and others etc. vs. Rafiq Masih (White Washer)etc., AIR 2015 SC 696. I am told by Mr Pathela that all but one or two of them have retired from service. Consequently, to avoid undue hardship and administrative chaos which may result, it is ordered that recoveries will not be effected from the employees in these petitions alone and none other would have the protection since this order will be treated in personam.

4. With the aforesaid directions and observations, these petitions are disposed of.

(RAJIV NARAIN RAINA)
JUDGE

3.4.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No