

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

**CWP- 4990-2007 (O&M)  
Date of decision: 01.05.2017**

**Kashmir Singh**

**.....Petitioner**

**versus**

**The Punjab State Electricity Board and others**

**.....Respondents**

**CORAM: Hon'ble Mr.Justice Kuldeep Singh**

Present: Mr.Dhirinder Chopra, Advocate for the petitioner  
Mr.Sukhbir Singh, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

**Kuldeep Singh, J. (Oral)**

Learned counsel for the petitioner at the very outset has stated that the work charge service of the petitioner has been counted for grant of pensionary benefits, therefore, he confines his prayer for relief only for grant of 23 years promotional increment.

The facts of the case are that the petitioner joined as Technical Mate on work charge basis on 29.12.1970. He was appointed on ad hoc basis as Oiler and Cleaner on 15.7.1976. His services were regularized on 20.9.1976. He was promoted as Sub Station Attendant on 10.6.1982 and retired from service on 31.5.2004. Petitioner was granted 16 years promotional scale w.e.f. 20.9.1992. However, 23 years promotional increment was not granted to him, which according to him, was due on 19.9.1999. It is claimed that the petitioner was eligible for the said scale and even the department has processed his case and sent the necessary

proforma but the same has been declined on the grounds that the petitioner has not passed the departmental accounts examination, which is necessary for the next post of Additional Assistant Engineer.

Respondents in the written statement have taken a stand that 23 years promotional increment was correctly denied on the ground that the petitioner got first promotion as Sub Station Attendant on 10.6.1982. Second promotional increment on completion of 16 years of service on the induction post was granted w.e.f. 20.9.1992. The third promotional post from the induction post of JE is Additional Assistant Engineer. For that the petitioner was required to pass the prescribed departmental examination for Engineering Subordinate i.e. Departmental Accounts Examination. Since, he has not cleared it, he was rightly refused the said 23 years promotional increment. The respondents have also reproduced the relevant rule for promotion to the post of Additional Assistant Engineer, which is as under:-

| Sr.No. | Post's name | Mode of recruitment | Minimum educational and other qualifications | Minimum experience | Rem<br>arks |
|--------|-------------|---------------------|----------------------------------------------|--------------------|-------------|
| 1      | 2           | 3                   | 4                                            | 5                  |             |

1 to 7    xxx            xxx            xx            xxx            xxx

|    |                                                   |                                                                                                                                                                         |                                                                                                           |                 |  |
|----|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------|--|
| 8. | Additional Assistant Engineer (AAE) (Electrical ) | Through promotion amongst from J.E. Electrical / Mechanical/ Sub Station/ Installation who have passed the prescribed departmental examination for Subordinate Engineer | J.E. (Electrical)/ for Mechanical Sub Station<br>1) 3 years diploma in Electrical/ Mechanical Engineering | 5 years as J.E. |  |
|----|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------|--|

In the replication, the petitioner has stated that the said examination is not required to be passed.

I have heard learned counsel for both the parties and have also carefully perused the record.

Admittedly, from the post of Sub Station Attendant, the second promotion was to the post of Junior Engineer Sub Station. The post of Junior Engineer could be filled by direct recruitment to the extent of 33% and 67% by promotion. Admittedly, the petitioner was never promoted as Junior Engineer Sub Station. The promotional increments are given on the basis of circular of the respondents dated 28.7.2000 (Annexure P14). The relevant extract from the same is reproduced as under:-

*“The Punjab State Electricity Board is pleased to decide that the grant of benefit of promotional increment(s) to an employee on completion of 23 years service as envisaged in its o/o No.384/Fin.PRC-121 dated 9.11.99 will be governed by the following conditions:-*

- i) he/ she has the avenue of three promotions but has not earned three regular promotions in his/ her regular service from the date of joining on the induction post/ or any other post specifically declared as induction post for granting time bound promotional/ devised promotional scale.*
- ii) He/ she has not earned third promotion in his/ her regular service between 16<sup>th</sup> and 23<sup>rd</sup> years of service.*
- iii) he/ she has not been placed in a scale which is higher than the scale of his/ her next higher post.*
- iv) the increment(s) are in the nature of advance promotional benefits to be absorbed in the next regular promotional*
- v) those who forego promotion shall not be entitled for this benefit.*

*2. This order will be effective from 1.1.96 without prejudice to the Assured Career Progression Scheme to be devised consequent upon revision of pay scales.”*

Learned counsel for respondents has argued that the word

“avenue” for three promotions means that he should have requisite qualification though the word requisite qualification is not mentioned in the said circular. The intra departmental correspondence Annexure P15 shows that the case of the petitioner was recommended for grant of 23 years of promotional increment giving all the necessary details vide letter dated 10.6.2003 (Annexure P16). The reminders dated 4.8.2003 (Annexure P17), dated 11.8.2003 (Annexure P18) and dated 1.9.2003 (Annexure P19) were sent. The case of the petitioner was returned on 24.8.2005 (Annexure P21) on the ground that the employee has not passed the departmental accounts examination. Therefore, the said 23 years promotional increment cannot be granted. It also comes out that the Senior Executive Engineer, Ropar vide letter dated 29.8.2005 (Annexure P22) has observed that next promotion from the post of S.S.A. to the post of S.S.O., for which it is not necessary to pass the accounts departmental examination.

I am of the view that in this case, the petitioner was never granted promotion of Junior Engineer Sub Station. Assuming that next promotion is Additional Assistant Engineer and certain experience as Junior Engineer was required, that would mean that employee who has not actually been granted promotion of Junior Engineer Sub Station will never be eligible for the next promotion of Additional Assistant Engineer. The word “avenue” does not mean that he should have requisite qualification. Had the petitioner been promoted as Junior Engineer then the department could insist that he should pass the said departmental examination for the next promotion. However, since the petitioner was never promoted as Junior Engineer, therefore, the passing of said departmental examination cannot be put as pre-condition. The word “avenue” is to be given a liberal

interpretation to mean that if the petitioner gets the next promotion only then for the still higher promotion, he should have the requisite qualification.

Learned counsel for respondent has relied upon the authority of Hon'ble Apex Court in Bhakra Beas Management Board vs. Krishan Kumar Vij & another, 2010(4) SCT 233. A perusal of the said judgment shows that in that case some Order/ Circular of 1990 was in issue which was regarding directly recruited Assistant Engineers. The present case is at different footing as in the present case, the petitioner was a promotee officer and he is seeking promotional increment on completion of 23 years service.

It being so, the present petition is allowed. The respondents are directed to grant 23 years promotional increment to the petitioner w.e.f. 19.9.1999 and re-fix his pay and pension accordingly and pay him the arrears with interest @ 9% per annum. The interest shall be payable three years before the date of retirement till the date of promotion.

**01.05.2017**  
*gk*

**(Kuldip Singh)**  
**Judge**

Whether speaking/ reasoned:  
Whether Reportable:

Yes  
No