

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

CWP No. 25182-2014 (O&M)

Date of decision: 17.03.2017

Shiv Charan

... Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. K.L. Dhinga, Advocate for the petitioner.
Mr. Vivek Chauhan, Advocate for respondent Nos. 1 to 3.

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 ?

KULDIP SINGH, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ or direction in the nature of mandamus to the respondents to grant benefit of stepping up of pay of the petitioner at par with his junior counterpart of reserved category, respondent No.4, with all the consequential benefits of pension, arrears and pensionary benefits.

The brief facts of the case shows that the petitioner belong to General category whereas respondent No.4 belong to reserved category. The petitioner was appointed/joined as SA (regular) on 06.05.1974 under the Haryana State Electricity Board (in short 'HSEB') at Ballabhgarh (District Faridabad) whereas respondent No.4

was appointed as SA (regular) on 23.09.1997 with HSEB and posted in the office of SE Karnal. The petitioner was promoted as ASSA on 06.04.1978 in the office of SE 'OP' Karnal whereas respondent No.4 was promoted as such on 20.03.1981 in the office of SE 'OP' Circle Karnal. However, thereafter, respondent No.4-Om Parkash was promoted as SSA on 27.03.1982 in the office of SE 'OP' Circle Karnal whereas petitioner was promoted as SSA on 24.02.1984 in the same office being general category candidate. Later on respondent No.4 was promoted as JE on 07.01.1987 in the office of SE 'OP' Circle Karnal whereas petitioner was promoted as JE on 12.05.2006 in the office of SE 'OP' Circle, UHBVNL (Uttar Haryana Bijli Vitran Nigam Limited) Panipat. Petitioner retired from service on 31.03.2009 and respondent No.4 retired on 31.03.2012.

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

The present petition was filed in the year 2014. The stand of the respondent is that HSEB was bifurcated in three different utilities in the year 1999, i.e. on 01.07.1999, therefore, they are not liable to step up the pay of the petitioner as he is stated to have catch up with respondent No. 4-reserved category candidate on 24.02.1984 when he was in service in HSEB.

The various instructions have issued by the Government from time to time Annexures P4 to P6 and Annexure P10, dated

05.03.2009, 29.05.2009, 23.11.2009 & 18.12.2013 respectively for stepping up the pay of General category employees at par with the junior counterpart of reserve category employees. It is not a denying fact that respondent No.2-UHBVN is successor-in-interest of HSEB. It comes out that petitioner was allocated to UHBVN whereas respondent No.4 was allocated to HVPNL w.e.f. 01.07.1999. Since both were allocated to different utilities, therefore, they were governed by the respective rules applicable to them after 01.07.1999. However, the fact remains that the petitioner catch up with his junior counterpart of reserve category candidate on 24.02.1984 and his pay was liable to be stepped up equal to his junior, Om Parkash-respondent No.4 w.e.f from the said date in view of the instruction issued from 05.03.2009 onwards (Annexures P4 to P6 and P10). Respondent No.2-UHBVN has inherited the rights and liabilities of HSEB qua the petitioner.

Therefore, the petition succeeds to the extent that respondent No.2-UHBVN is directed to step up the pay of the petitioner to notional fixed pay at par with junior Om Parkash-respondent No.4 w.e.f. 27.03.1982. However, the difference of the pay shall be payable only from the date of actual promotion of the petitioner i.e. 24.02.1984. Since the petitioner has approached this Court in the year 2014 with an inordinate delay, he will not be entitled to interest of arrears.

Accordingly, the pension of the petitioner shall also be refixed and the petitioner will be paid the revised pension and arrears

thereof that too without any interest.

However, it is made clear that if the pay of the petitioner was already stepped up at par with his junior counterpart as SSA, the petitioner will not be entitled to above noted relief i.e. arrears of pay and pension.

In view of the above, the writ petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

17.03.2017
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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No