

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3554 of 2017

Date of Decision: 23.03.2017

Punjab State Power Corporation Limited
and another

... Petitioners

Versus

Hardeep Singh and another

... Respondents

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

Present: Ms. Deepa Singh, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.(Oral)

1. The cause of the workman was espoused by the workers' union raising dispute with the Punjab State Electricity Board (presently PSPCL) as to promotion based on regularization of services, claiming both the benefits. The dispute as to entitlement to promotion was referred to the Labour Court at Gurdaspur who by his award dated June 01, 2016 has answered the reference in favour of the respondent-workman. History of has litigation has been set out in detail in the the impugned award which needs no repetition. But the broad facts necessary to be noticed are that the petitioner's services were terminated in 1982 after he had put in service as a work charge T-Mate from April 1980. He challenged the termination before the Labour Court and failed. The award went against the respondent Board.

2. Dissatisfied with the award, the respondent workman approached the High Court in a writ petition which was allowed partly to

the extent that the award was set aside and the case remanded for fresh decision. Ultimately the reference was answered by the Labour Court, Gurdaspur on February 17, 2003. The respondent was granted the relief of reinstatement with continuity of service but with right to 50% back wages from the date of demand notice i.e. October 20, 1984. The award attained finality. The workman was taken back in service in terms of the award.

3. On his return to office, he claimed benefit of a policy of regularization of work charge T-Mates issued by the PSEB which provides opportunity to a work-charge/T-Mate in the service of the Board to be regularized as Assistant Lineman. The policy was varied but later on the management introduced a refurbished policy dated February 03, 2004 deciding that those workers who were working prior to December 31, 1990 and had rendered more than 12 years of service deserve to be regularized as ALM. The workman seeks his claim to regularization on the ground that during the long passage of time he spent in litigation to secure reinstatement and consequential benefits many of his erstwhile compatriots had been regularized in service. Hence, he should be given the same treatment on parity as the workman had been inducted in service in April 1980 which was well prior to December 31, 1990, thereby completing 12 years of service in 1992. Therefore, he should be held legally entitled to regularization. And if regularization was granted it will follow a priori that he would be entitled to promotion to the higher post from ALM subject to service record. This is precisely what the Labour Court has done in its award holding that the petitioner had more than 12 years of service to his credit as on February 03, 2004 by virtue of the legal fiction created by the

award of the Labour Court, Gurdaspur dated February 17, 2003. The respondent worker had acquired a right which had crystallized and was given effect to. It has been noticed by the Labour Court that the management did not show any material to decline this prayer

4. It matters little whether Hardeep Singh/respondent died during the litigation because the financial benefits arising out of regularization and promotion would accrue to his heirs and legal representatives. The Labour Court also noticed from the written statement of the Board/PSPCL that the case of late Hardeep Singh was sent to the competent authority for considering regularization of his services even prior to the filing of the written statement before the Labour Court which reply is dated August 22, 2006. But the issue was left hanging fire without and final decision on the representation and this is where the Labour Court has stepped in to cure in its award to remedy wrongful actions of the Board/PSPCL under an obligation to consider offering regularization and thereafter consider the workman's case for further promotion from the date when the junior was promoted.

5. In view of the above discussion, I find no perversity or illegality in the impugned award of the Labour Court. It does not suffer from any fundamental flaw or of reasoning which warrants interference in proceedings under Article 226 of the Constitution of India. The discretion judicially exercised by the Labour Court on the evidence available and after appreciating it, the award is not to be interfered with as that is not the scope of the High Court while judicially reviewing the award of a Tribunal, re-appraising the evidence and reaching a different conclusion than the one

plausibly taken by the labour Court.

6. Accordingly, the petition is found devoid of merit and is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

23.03.2017
manju

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>