

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

**CWP No. 3168 of 2003 (O&M)**

**Date of Decision: 12.11.2018**

Baljit Singh

...Petitioner

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

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

Present: Mr. Ashwani Talwar, Advocate  
for the petitioner.

Mr. Arvind Seth, Advocate  
for the respondents.

**RAJIV NARAIN RAINA, J. (Oral)**

1. The challenge in this petition is to the order dated 21.05.2002 (P-1) passed by respondent No.4 whereby the petitioner has been denied the benefit of second ACP scale without taking into consideration the continuous length of service. The second part of challenge is the order dated 24.07.2003 (P-12) whereby claim of the petitioner for re-fixation of seniority as Lower Division Clerk from the date of his initial appointment as Assistant Lineman (ALM) has been rejected.

2. The petitioner was appointed as ALM on 29.09.1978 on regular basis. However, while working as an ALM, the petitioner suffered amputation of his left upper limb below the elbow due to electrocution. His services were dispensed with w.e.f 03.02.1997 i.e. the date from which he was declared 70% permanent disabled. Aggrieved by the order, the petitioner

approached this Court in CWP No.15813 of 1998 praying that the termination order be set aside and he may be reinstated into service and given an alternative job as Meter Reader/Lower Division Clerk etc. involving lighter duties. By an interim order, this Court directed that the case of the petitioner be considered for an alternative employment. During the pendency of that petition, vide orders dated 23.10.1999 (P-6), the respondent-Nigam reinstated the petitioner on the post of LDC with continuity of service carrying equivalent pay scale as that of ALM w.e.f. 03.02.1997, the date when the petitioner was removed from service.

3. Learned counsel for the petitioner submits that the petitioner is entitled to seniority in the cadre of Clerks from the initial date of his entry into service as ALM i.e. 29.09.1978 while he has been granted seniority of LDCs w.e.f. 04.02.1997 the date when the petitioner was taken back as LDC. However, his service rendered as ALM up to 03.02.1997 was ordered to be counted towards his pensionary benefits as he was deemed to have been continued in service.

4. I have heard the learned counsel for the parties.

5. As far as prayer for re-fixation of seniority of the petitioner as LDC from the date of initial appointment as ALM is concerned, it has to be turned down because the petitioner was appointed as LDC by taking a lenient view on his amputation. ALM and LDCs are separate cadres which may adversely affect those whose rights to seniority as LDCs stand settled and not open to be disturbed. Moreover, the petitioner was allowed continuity of service for the purpose of pension and retirement benefits. However, the

petitioner is entitled to his 2<sup>nd</sup> ACP on completion of 20 years of service because he was reinstated as LDC w.e.f. 03.02.1997 with retrospective effect & continuity of service and pensionary benefits which will not affect third party rights. Since the petitioner was deemed to be in continuous service he is entitled to the grant of 2<sup>nd</sup> ACP scale on completion of 20 years satisfactory service w.e.f. the date of initial appointment.

6. Resultantly, this writ petition is partly allowed. A direction is issued to the respondents to grant 2<sup>nd</sup> ACP scale to the petitioner on completion of 20 years satisfactory service w.e.f. the date of initial appointment i.e. 29.09.1978 with all consequential benefits within a period of three months from the date of receipt of a certified copy of this order. The amount of arrears of ACP found due after re-fixation of pay/pension be also given to the petitioner with 6% interest per annum within the same stipulated period.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**12.11.2018**

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*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*