

CWP No.17787 of 2015 (O&M)

[1]

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

Sr. No.223

**Civil Writ Petition No.17787 of 2015 (O&M)
DECIDED ON: February 19, 2018**

PAL SINGH

..PETITIONER

VERSUS

**THE PUNJAB STATE POWER CORPORATION LIMITED AND
ANOTHER**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. A.K. Walia, Advocate,
for the petitioner.

Mr. Y.P. Khullar, Advocate,
for the respondents.

JASPAL SINGH, J.

CM No.2255-CWP of 2018

Application is allowed as prayed for and replication is taken
on record subject to all just exceptions and be tagged at appropriate place.

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By virtue of the instant civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of an appropriate writ, order or direction especially a writ in the nature of Certiorari, quashing the impugned order dated 28.03.2013 (P-5) as well as order dated 04.02.2015 (P-6) issued by respondent No.2, whereby benefit of first time bound higher pay scales granted to him in the year 2007 after completion of 9 years of service, due to foregoing of promotion in the year 2012 has been withdrawn and also quashing the impugned recovery statement (P-9) re-fixing/reducing of his pay and working out huge recovery of Rs.91,685/- on the basis of impugned orders dated 28.03.2013 (P-5) and 04.02.2015 (P-6).

2. The contention of learned counsel for the petitioner is that respondents have illegally withdrawn the benefit of time bound higher pay scales granted to him in the year 2007 after completion of 9 years of service vide impugned order dated 28.03.2013 (P-5) on account of foregoing of promotion in the year 2012 and further vide order dated 04.02.2015 (P-6), a recovery of Rs.91,685/- has been sought, in fact, the controversy involved in the instant case stands squarely covered within the parameters laid down by this Court in CWP No.2587 of 2009 titled as '***Rattan Chand vs. Punjab State Electricity Board & ors.***' decided on 12.08.2010. The said judgment has attained finality. Subsequently, CWP No.6621 of 2007, captioned as '***Pramod Kumar Pathak vs. Punjab State Electricity Board, Head Office, Patiala through its Secretary & ors.***

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along with two other petitions decided on 25.05.2011 passed by this Court, absolutely in terms of judgment rendered in Rattan Chand's case (Supra) and in view of aforesaid judgments, instant petition deserves to be accepted.

3. On the other hand, learned counsel for the respondents has simply argued that no question of law arises in the instant case for consideration of this Court and the benefit of time bound higher pay scales granted to the petitioner in the year 2007 after completion of 9 years of service has been withdrawn by the respondents as per rules and instructions. According to which, if employee forego promotion, the benefit of time bound higher pay scales earlier availed off by the petitioner has rightly withdrawn and a recovery worked out.

4. This Court has given a deep thought to the aforesaid rival submissions made by learned counsel for the parties and have gone through the various documents available on record as well as judgments relied upon by the learned counsel for the petitioner.

5. This Court is of the considered view that case of the petitioner stands fully covered by the observations made by this Court in *Rattan Chand's case (Supra)* on the point, the controversy involved in the *Rattan Chand's case (Supra)* was absolutely identical, which is subject matter of the instant petition. In *Rattan Chand's case (Supra)*, following observation was made:-

17 For the reasons afore-stated, the writ petition is allowed; the impugned order dated 11.10.2002 (Annexure P2) and the

*subsequent speaking order dated 23.12.2008 (Annexure P5) are hereby quashed. The respondents are directed to restore the time-bound promotional pay scales to the petitioner w.e.f. **11.10.1990 & 18.06 1993**, respectively on completion of 9/16 years of his service, besides refunding the amount of Rs.1,27,431/- deducted from the DCRG of the petitioner. The respondents are further directed to re-fix the pension and other retiral dues of the petitioner accordingly. The petitioner shall be paid the deducted amount as well as the arrears of the promotional pay-scales and pension etc. along with interest @ 9% per annum. In addition, the petitioner shall also be entitled to cost of Rs.10,000/- which the respondents shall be at liberty to recover from the officer(s)/ official(s) who raised the objections leading to the withdrawal of the promotional pay scales from the petitioner. The needful shall be done within a period of three months from the date of receipt of a certified copy of this order.*

18 Ordered accordingly.

6. In an identical matter CWP No.6621 of 2007, captioned as ***Pramod Kumar Pathak vs. Punjab State Electricity Board, Head Office, Patiala through its Secretary & ors. along with two other petitions***, decided on 25.05.2011, was disposed of absolutely in terms of the judgment rendered in ***Rattan Chand's case (Supra)***.

7. Similarly, in CWP No.371 of 2007 captioned as ***Pritam Singh Vs. Punjab State Electricity Board & ors.*** decided on 12.10.2010 (P-8), the order passed for recovery and withdrawal of the benefit of time bound higher pay scales was quashed, while relying in ***Rattan Chand's case (Supra)***.

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8. Thus, this Court is of the considered view that the withdrawal of time bound higher pay scales is absolutely illegal, unjustified and against the principle laid down in aforesaid judgments, which have attained finality particularly having been implemented.

9. As an up short of the aforesaid discussion, instant petition is allowed and impugned orders dated 02.01.2013 (P-4/T), 28.03.2013 (P-5/T), 04.02.2015 (P-6/T) and 23.07.2013 (P-9/T) are set aside. Respondents are directed to restore the time bound higher pay scales to the petitioner on completion of 9 years of service besides refunding the amount, if already recovered from him with further direction to re-fix his pension and other retiral dues, within a period of three months from the date of receipt of a certified copy of this order.

10. In case, an amount was already recovered, petitioner shall be entitled to interest @ 9% per annum from the date of recovery of amount till actual payment thereof.

February 19, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes
Yes/No**