

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

Sr. No.224

Civil Writ Petition No.22317 of 2015
DECIDED ON: March 08, 2018

KUSAM LATA

..PETITIONER

VERSUS

**CHAIRMAN, HARYANA POWER UTILITIES DEPARTMENT AND
OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Arvind Seth, Advocate,
for the petitioner.

Mr. R.K.S. Brar, Advocate,
for the respondents.

JASPAL SINGH, J. (ORAL)

By virtue of the instant civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought the following two directions:-

“(i) A direction to the respondents to fix the pension of the petitioner in view of the order dated 26.08.2013 (Annexure P-8) where the petitioner has been given the notional dates of promotion as Commercial Assistant, Circle Assistant, Head Clerk and Circle Superintendent.

(ii) The respondents be directed to pay the arrears to the petitioner after fixing the pay scale of the post on which the petitioner has been given the notional dates of promotions in view of the order dated 26.08.2013 (Annexure P-8).”

Civil Writ Petition No.22317 of 2015

2. Undisputably, vide order dated August 26, 2013 (P-8), petitioner was granted a deemed dated promotion to the post of Commercial Assistant w.e.f. April 15, 2002, Circle Assistant w.e.f. September 09, 2003, Head Clerk w.e.f. June 08, 2005 and Circle Superintendent w.e.f. July 06, 2006, on notional basis. The precise grievance ventilated by the petitioner through the instant petition is that even the benefit which has been granted to her vide order dated August 26, 2013 (P-8) has not so far been extended to her. Rather stands declined as per order dated March 10, 2014 (P-10).

3. A glance at the aforesaid order makes it crystal clear that the pay and pension of the petitioner/retiree were ordered to be fixed on notional basis yet no arrears were held to be admissible to her. Meaning thereby that the pay and pension of the petitioner was to be fixed on notional basis on the date of her retirement, considering her promotion that she was holding the said post on the date of her retirement. But this benefit is being declined to the petitioner by the respondents simply on the ground that since she did not work as Circle Superintendent. During her service i.e. prior to the date of her retirement, she is not entitled to the benefit of fixation of her pay and pension even on notional basis. It has further been agitated by learned counsel for the respondents Mr. R.K.S. Brar, Advocate that since the petitioner was not drawing the pay of Circle Superintendent on the date of her retirement, she is not entitled to it. But in the considered view of this Court, this submission made by learned counsel for the respondents is devoid of merit and can be said to be against the letter and spirit of order dated August 26, 2013 (P-8), which otherwise, clearly provides that the pay and pension of the retiree is to be fixed on notional basis on the date of her retirement, considering herself to be promoted as

Civil Writ Petition No.22317 of 2015

Circle Superintendent. Otherwise also, if the submission made by the learned counsel for the respondents is taken to be correct for the sake of arguments, petitioner is not going to draw any pecuniary benefit, even after she has been granted the benefit vide order dated August 26, 2013 (P-8). It appears that respondents who have handed down the aforesaid order dated August 26, 2013 are not inclined to accept the same and are going to wriggle out of it, which is not permissible.

4. Without discussing much, yet keeping in view the facts and circumstances narrated above, petition succeeds and is hereby allowed, whereby the respondents are directed to fix the pay and pension of the petitioner on notional basis and consider her as a retiree on June 30, 2009 as Circle Superintendent and that she was drawing the salary to which a Circle Superintendent is entitled. Respondents are also directed to calculate and pay the difference of said amount, within a period of three months from the date of receipt of a certified copy of this order. Otherwise, it would entail interest @ 9% per annum from the date of filing of instant petition till actual payment.

March 08, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No