

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2062-2014 (O&M)

Date of decision: - 30.08.2018

Punjab State Power Corporation Limited and another

...Appellants

Versus

Bal Krishan Sharma and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Vinod S. Bhardwaj, Advocate, for the appellants.

Mr. Arjun Pratap Atma Ram, Advocate
for respondents No.1, 7, 11, 14, 19, 25, 29, 35, 40, 42, 45 to
47, 49, 51, 54, 55, 60, 69, 70 and 105.

Mr. Ashok Bhardwaj, Advocate, for respondent No.96.

MAHESH GROVER, J. (ORAL)

CM Nos.4334-4335-LPA-2014

In view of the reasons mentioned in the applications, 17 days
delay in filing and 25 days in re-filing of present appeal are condoned.

CMs stand disposed of.

Main Case

Present Letters Patent Appeal is directed against the
judgment of learned Single Judge dated 03.07.2014.

The respondents are employees of the Board, working as
Junior Engineer (Civil) and they had put in more than nine years of

service as on 19.07.1989 and some had more than sixteen years. According to the Rules, which governed the Service Regulations, the next promotional post from Junior Engineer (Civil) is of Assistant Engineer and higher to this is Executive Engineer. The pay scale of Junior Engineer (Civil) is ₹1800-3200 while the pay-scale of post of Assistant Engineer is ₹2200-4250 with initial start of ₹2400/-. The pay scale of Executive Engineer is ₹3000-5600.

The respondents instead of being given the promotion were admitted to a slightly higher pay scale of ₹1640-3200 (revised) when the appellant took a decision to upgrade 20% of the posts of Junior Engineer (Civil) to this scale by ascribing then the designation of Junior Engineer (I) (Civil) in the scale of ₹1800-3500 w.e.f. 01.01.1986. The Board has issued instructions in this regard and Annexures P-1 to P-3 are the testimony to that effect. On 31.08.1990 the Board granted pay scale of ₹900-3500 after nine years of service and ₹2200-50-2400-60-2700-75-3000-100-4000-125-4250 after 16 years of service.

The aforesaid decision ostensibly has been taken on the assumption that the post of Junior Engineer (I) created vide Annexure P-3 is the next promotional post.

Learned Single Judge held that the respondents would be entitled to a grant of time bound benefit of the next higher scale without insistence on Annexure P-3 thereby granting a separate designation of Junior Engineer-I (Civil) and corresponding pay scale mentioned in the said circular.

Learned counsel for the appellant would refer to the circulars

(Annexures P-1 and P-3) to contend that the Board was conscious of its responsibility towards its employees and the stagnation they faced in the service and thus to address this issue, the decision was taken vide Annexure P-3, which we extract as below for the purpose of reference: -

“The Punjab State Electricity Board is pleased to upgrade 20% cadre posts of Junior Engineer-II/Civil in the scale of ₹1640/3200 (revised) to that of Junior Engineer-I/Civil in the scale of ₹1800/3500 w.e.f. 1.1.1986.”

We have heard the learned counsel for the parties and are of the opinion that learned Single Judge is right in reasoning that without amending the regulations, the appellant could not have created an intermediary post with a scale when the employees were entitled to scale of the next promotional post of an Assistant Engineer.

The action of the Board, to our mind, is the one which robs the respondents of their legitimate right to promotion. It is indeed a reflection of their concern when they acknowledge the right of an employee to gain at least two promotions in the service career, but after doing so they have craftily denied the benefit by creating an intermediary pay structure of ₹1600-2000-3500-.

Evidently such a course could not have been adopted without corresponding amendment in the regulations and as long as the regulations exists in the present form, the employees would be entitled to promotion to the next higher post and if for some reasons such a promotion cannot fructify, they would be entitled to the pay scale admissible to such a post.

Learned counsel for the appellant contends that even if the creation of post is not permissible, the higher pay structure as prescribed to a Junior Engineer (I) would be permissible through introduction of a scheme.

We have already observed that this is a craftily devised via media to subvert the right of an employee. If a higher pay structure has to be made permissible in time bound frame, then it has to be equivalent to that of the promotional post otherwise it will lose all significance of a symbolic promotion, offered to an employee for failure of the employer to provide a venue for substantive promotion.

In view of above, the present appeal is dismissed.

(MAHESH GROVER)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

August 30, 2018
naresh.k

Whether reportable?	Yes
Whether reasoned/speaking?	Yes