

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-1748-2016 (O&M)

Date of Decision: 1.11.2018

Krishan Lal Batra

...Appellant.

Versus

Punjab State Power Corporation Limited and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Anish Batra, Advocate for the appellant.

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

AJAY KUMAR MITTAL, J.

1. A challenge is made to the order dated 2.8.2016 passed by the learned Single Judge whereby the claim of the appellant for exercising the revised option with effect from 1.1.2006 was declined on the ground that option once exercised shall be final. Further, prayer was also made that the appellant should be given right to furnish revised option with effect from 19.7.2006 instead of 1.1.2006 under the second proviso of Regulation 5 of the Finance Circular No. 15/2009 dated 15.10.2009 read with Office Order No. 906 dated 22.6.2011.

2. The facts in short are that the appellant retired as Revenue Accountant on 31.7.2011. The appellant opted for the revised pay structure with effect from 1.1.2006. According to order dated 22.6.2011 (Annexure

years and second time bound promotional scale on completion of 16 years of service. That being so, the appellant moved for the fresh option to revise the pay structure with effect from 19.7.2006 instead of 1.1.2006. However, the said claim of the appellant was rejected vide order dated 21.8.2014 (Annexure P-6) by virtue of which the appellant was not allowed to exercise fresh option. The aforesaid order dated 21.8.2014 was subject matter of challenge before the learned Single Judge who also negated the claim of the appellant, as noticed above.

3. Learned counsel for the appellant submitted that the learned Single Judge has erroneously arrived at the conclusion that as per Regulation 6(4) of the Finance Circular No.15 dated 15.10.2009, once the option was exercised for the revised pay scale with effect from 1.1.2006, then the appellant could not have been allowed to exercise for the revised pay scale with effect from 19.7.2006. It was also argued that according to second proviso of Regulation 5 of the Finance Circular No.15 dated 15.10.2009, the appellant, who was put in second time bound promotional scale with effect from 19.7.2006, ought to have been allowed to exercise fresh option for the revised pay structure with effect from 19.7.2006 instead of 1.1.2006.

4. Learned counsel for the respondents submitted that the findings recorded by the learned Single Judge flow in the last operative part of the judgment which clearly interpret the Regulation and the reasons for negating the claim of the appellant regarding fresh option to be exercised with effect from 19.7.2006. A prayer for dismissal of the appeal was made.

5. We have heard learned counsel for the parties and perused the paper book.

6. Regulation 5 of the Finance Circular No.15 dated 15.10.2009 reads thus:-

“5. Drawal of pay in the revised pay structure- Save as otherwise provided in these Regulations, a Board employee shall draw pay in the revised pay structure applicable to the post to which he is appointed;

Provided that a Board employee may opt to continue to draw pay in the existing scale, until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale;

Provided further that in cases where a Board employee has been placed in higher pay scale between 1.1.2006 and the date of notification of these Regulations on account of promotion, upgradation of pay scale under the Assured Career Progression Scheme, Time Bound Promotional/Devised Promotional Scales, or otherwise, the Board employees may elect to switch over to the revised pay structure from the date of such promotion, upgradation etc.”

Further, Regulation 6(4) stipulates that option once exercised shall be final.

7. Learned Single Judge taking the combined effect of Regulation 5 and Regulation 6(4) declined the claim of the appellant as under:-

“I am of the view that the reading of the of the Finance Circular No. 15/2009, dated 15.10.2009 shows that it pertains to the order passed between 1.1.2006 and the

date of notification. Under the first proviso to Regulation 5 of the Finance Circular No. 15/2009, dated 15.10.2009, the employee has the option to continue to draw pay in the existing scale, until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale. The option exercised by the petitioner was unconditional. He never exercised conditional option that in case he is placed on higher pay scale on account of being placed in the higher pay scale after completion of 9 and 16 years of service, he shall have right to exercise fresh option. As per Regulation 6(4) of the Finance Circular No. 15/2009, dated 15.10.2009, the option once exercised shall be final and cannot be revised. Since there was no option to revise the option, therefore, the petitioner cannot be allowed to exercise fresh option in view of order dated 22.6.2011 (Annexure-P-1).”

8. No illegality or perversity could be pointed out in the approach of the learned Single Judge which may warrant interference. Accordingly, the present appeal being devoid of any merit is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

November 1, 2018
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(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No