

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
111**

**CM-17295-C-2018 &
CM-10974-C-2017
RSA-4223-2017 (O&M)**

Date of decision:21.11.2018

HAKAM SINGH

...PETITIONER

Vs.

PUNJAB STATE POWER CORPN . LTD. AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gagan Pradeep Singh Bal, Advocate,
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-17295-C-2018

Prayer in this application is for hearing the case as the same has
been adjourned sine die vide order dated 06.03.2018.

For the reasons mentioned in the application, the same is
allowed. The Regular Second Appeal is taken on Board for consideration.

CM-10974-C-2017

Prayer in this application is for condonation of delay of 38 days
in re-filing the appeal.

In the light of the reasons assigned in the application, which is
duly supported by the affidavit of the clerk of the counsel, the present
application is allowed. Delay of 38 days in re-filing the appeal stands
condoned.

RSA-4223-2017

The Regular Second Appeal has been preferred by the appellant against the judgment and decree dated 13.10.2014 passed by the Civil Judge (Junior Division), Bathinda, whereby the suit for declaration and mandatory injunction holding the appellant-plaintiff entitled to re-fix the pay scale of 8550-14500 as on 08.02.2005 and the pay scale of 16650-39100 plus grade pay ₹5,950/- as on 01.01.2006 consequent upon the transfer of the appellant-plaintiff from the post of Junior Specialist to the post of Shift Engineer (Assistant Engineer) against the vacant post leave reserve along with other consequential benefits, has been dismissed, which has been upheld by the learned District Judge, Bathinda vide judgment dated 29.08.2016.

It is the contention of the learned counsel for the appellant that the appellant has performed the duties of the Shift Engineer (Assistant Engineer) although he was holding the post of Junior Specialist. He contends that since the appellant has performed the duties of the post of Shift Engineer, he was entitled to the benefit of the pay scale which is payable to the said post with effect from the date of his transfer i.e. 08.02.2005 till the date of his retirement i.e. 31.03.2011 and thus, he is also entitled to the consequential benefits.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

Rule 9(a) of the Punjab State Electricity Board Services of Engineers (Electrical) Regulations, 1965, prescribed the qualifications and the number of posts which can be filled up by way of promotion to the post

of Assistant Engineer. According to the said Rule, 10% of the cadre posts of Assistant Engineers had to be filled up by promotion on seniority-cum-merit from the technical subordinates Grade-I, which included Junior Specialists along with other categories having holding 3 or 4 years diploma in Electrical, Mechanical or Electronics/Tele-communication Engineering of a recognized institute with 10 years as technical subordinate Gr-II or Gr.I out of which a minimum of five years service should be in the capacity of technical subordinates Gr.I.

It is an admitted position that the appellant-plaintiff possesses one year ITI course from the National Council for Training in Vocational Trades. He, therefore, does not possess or holding diploma in any of the esteem which is of the duration of 3 or 4 years. He being, therefore, not qualified for promotion to the post could not be entitled to the benefit of the pay scales. Further, as per the findings recorded by the Courts below, the appellant has not taken over the charge of the Shift Engineer nor has he relinquished the charge of Junior Specialist and on the date of his retirement, he has given charge of Junior Specialist. Nothing on the record indicates that the appellant would be entitled to the benefit of the pay scale of the post of Assistant Engineer especially in the light of the fact that he does not fulfil the requisite qualification for the post. Reliance of the Courts below on the judgments passed by this Court in **Major Singh vs. State and others**, 2009 (4) SCT 315 as also **Sawinder Singh vs. State of Punjab**, 1994 (4) SCT 157, cannot be said to be erroneous in any manner.

In view of the above and keeping in view the facts and circumstances as also the pleadings of the parties, no ground is made out to interfere in the concurrent findings recorded by the Courts below.

There is no substantial question of law in the present appeal which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

November 21, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No