

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17816 of 2015

Date of decision : 13.09.2019

Kesho Ram Goel

....Petitioner

Versus

The DHBVNL and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rakesh Nagpal, Advocate for the petitioner.

Mr. R.S. Longia, Advocate for the respondents.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance which is being raised by the petitioner is that his claim for the grant of time scale in the Cadre of Assistant Engineer after a period of 12 years of service by computing the same from 07.01.1988, has been declined on the ground that the ad-hoc service cannot be taken into account for the grant of the time scale after rendering 12 years of service as only regular service can be taken into account for the said purpose. The orders dated 03.05.2013 and 10.06.2013 (Annexure P-11 and P-12) respectively are under challenge in the present writ petition.

As per the facts stated in the writ petition, petitioner was appointed as a Line Superintendent on 03.06.1966 in Punjab State Electricity Board as at that time, it was Punjab State Electricity Board. After the bifurcation, petitioner was allocated to the Haryana State Electricity Board in November, 1966. On 20.05.1980, petitioner was

promoted as a Junior Engineer. He continued working as such when vide order dated 07.01.1988 petitioner alongwith others were promoted as Sub Divisional Engineer/Assistant Engineer on ad-hoc basis but with regular pay scale. Petitioner continued working as such when his services were regularized as Assistant Engineer w.e.f. 10.08.1990.

Under the rules governing the service, an Assistant Engineer was entitled for the grant of time scale, which has higher than the initial entry scale, after a period of 12 years of service. Petitioner claims that he completed 12 years service as Assistant Engineer on 07.01.2000 and, therefore, he was entitled for the benefit of time scale from 07.01.2000 onwards. The said request of the petitioner was not accepted by the respondents on the ground that the ad-hoc service, which the petitioner had rendered in the Cadre of Assistant Engineer starting from 07.01.1988 till 10.08.1990 cannot be taken into consideration and as only the regular service has to be taken into consideration and, therefore, petitioner is not entitled for the said benefit and by the time, petitioner completes 12 years of service starting from 10.08.1990, he had already attained the age of superannuation on 31.10.2012. Hence, the claim of the petitioner has been declined by the respondents.

Counsel for the petitioner argues that for the grant of benefit as claimed by the petitioner, the total length of service, which the petitioner had rendered in the Cadre of Assistant Engineer, is to be taken into consideration by the respondents and he relies upon an order passed by the Division Bench of this Court in LPA no. 1666 of 2012 decided on 19.02.2013 titled as ***L.C. Makkar Vs. Uttar Haryana Bijli Vitran Nigam Ltd. and another.*** In the said LPA, a similarly situated employee as the

petitioner, who was also given the ad-hoc promotion alongwith the petitioner vide order dated 07.01.1988, has been granted the benefit of computing 12 years of service from the date of his promotion on ad-hoc basis i.e. 07.01.1988. The Division Bench held that once an employee was continuously discharging the duties of the post of Assistant Engineer starting from 07.01.1988 and he was being paid the regular pay scale of the post of Assistant Engineer from the said date, there is no reason why the benefit of time scale be not granted from the date of continuous service for which, an employee is getting the regular pay scale as the same cannot be treated as a stop gap arrangement. The said judgment has already been attached with the petition as Annexure P-14. Relevant paragraphs 3 and 4 of the said judgment are as under:-

“3. Learned counsel for the respondents has produced copy of the office order dated 31.12.2012 passed by the respondents after the directions given by the learned Single Judge, as mentioned above. This order reflects that the appellant has been granted regular pay scale of AE with effect from 9.3.1988 vide order dated 22.2.1991 and he completed 12 years of regular satisfactory service on 8.3.2000. Thus, he would be entitled to time-scale after 5/12 years regular satisfactory service alongwith all consequential benefits. This order further states that in view of the above facts, Shri L.C. Makkar, AE (Retd.) is entitled for 12 years time-scale with effect from 8.3.2000 on completion of 12 years regular satisfactory service alongwith all consequential benefits.

4. It is clear from the above that the appellant has been granted the time-scale with effect from 8.3.2000. The office order also shows that the appellant will be given all consequential benefits. It is, thus, clear that the appellant shall not only be given arrears of time-scale with effect from

8.3.2000, on that basis, his basic pay which he would draw as on the date of retirement shall be taken into consideration for computing gratuity, pension and other pensionary benefits. The arrears on account of gratuity and pension/pensionary benefits shall also be released within one month from today. The appellant shall also be paid interest @ 9% per annum on the arrears of pension/pensionary benefits as well as gratuity.”

Learned counsel for the respondents is not able to dispute that the similarly situated employees, namely, Sh. L.C. Makkar has been granted the same benefit, as being sought by the petitioner in the present writ petition i.e. grant of the benefit of time scale after rendering 12 years of service by computing the same from the initial date of appointment i.e. 07.01.1988.

Learned counsel for the respondents is also unable to distinguish the case of the petitioner from the case of ***L.C. Makkar (supra)*** in any manner so as to dis-entitle him for the grant of benefit as extended to Sh. L.C. Makkar.

As the petitioner is similarly situated as L.C. Makkar and the counsel for respondents has been unable to distinguish the case of the petitioner with that of Sh. L.C. Makkar in any manner and the claim which the petitioner is making in the present writ petition has already been allowed by the Division Bench while deciding LPA No. 1666 of 2012, on 19.02.2013, the present writ petition is also disposed of in same terms as LPA No. 1666 of 2012, decided on 19.02.2013.

Petitioner will be entitled for the same benefit as extended to Sh. L.C. Makkar by the Division Bench.

Learned counsel for the respondents states that the petitioner is

not entitled for the relief as being extended to Sh. L.C. Makkar as the petitioner retired in the year 2001, whereas the present writ petition was filed in the year 2015 and, therefore, this writ petition is liable to be dismissed on the ground of delay and laches.

The said objection will not be available to the counsel for the respondents in the present case. The relief was granted to the similarly situated employee by the Division Bench only in the year 2013, which judgment has been implemented by the respondents. The Division Bench of this Court while deciding CWP No. 4382 of 2002 titled as *Satbir Singh Vs. State of Haryana*, on 21.03.2002 has held that once the question of law is settled, the benefit of the same should be given to all the similarly situated employees and they should not be forced to approach the Court. Once the onus of granting the benefit was upon the respondents themselves to all the similarly situated, no ground can be taken by the respondents that the present writ petition is barred by delay and laches as it was the duty of the respondents to extend the benefit to the petitioner, who was similarly situated as Sh. L.C. Makkar, and, therefore, this objection will not be available to the respondents in view of the settled principles of law.

Writ petition is allowed in above terms.

September 13, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? Yes