

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

CWP No.4946 of 2011
Decided on:27.11.2019

Om Parkash Chopra

.....Petitioner

versus

Punjab State Power Corporation Ltd. and others

....Respondents

CORAM : HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr.Manish Prabhakar, Advocate,
for the petitioner.

Mr.G.P.S.Bal, Advocate,
for the respondents.

ARUN MONGA, J. (Oral)

Inter alia issuance of writ in the nature of certiorari has been sought to quash the order dated 17.02.2004 (Annexure P-1) whereby the benefit of Master Pay Scale was not accorded to the petitioner in as much as he was denied to step up of his salary to the pay scale of 1640-1720 and 1840-1920 in compliance with the circular No.39/89 (Annexure P-3) issued by the respondent erstwhile Punjab State Electricity Board. The said circular was introduced w.e.f. 01.01.1986.

2. In the return filed by the respondent-Board the petition has been resisted on the ground that the petitioner is not entitled to the benefit of said circular in view of the specific note contained therein, which is not under challenge herein, in as much as the said note clearly states as below:

“Note: The above benefit of compensatory increments will not be permissible to such of the employees of the Board who joined/join regular service after 01.01.1986”

3. Before adverting to the claim of the petitioner it would be apposite to mention here that the petitioner was earlier in regular employment of Municipal Corporation, Amritsar, since 1966. Upon merger of the Electricity Wing of the Municipal Corporation into Punjab State Electricity Board on 01.04.1995 it was envisaged that the said merger shall not act to the detriment to employees of the Municipal Corporation and they shall be equated in parity with their counterparts in the Punjab State Electricity Board. To that effect a circular dated 24.04.1996 was issued by the erstwhile PSEB which envisages as below:

- 1) All M.C.personnel should be equated with reference to their functions, responsibilities, pay scales etc. to the specified cadres in Board. Where there is no doubt regarding equation, M.C.Personnel should be integrated with the Board cadre on the basis of their length of service in the present rank provided the said personnel possesses the requisite qualifications/ experience prescribed for the equivalent posts in PSEB.
- 2) The integration will be as on 1st April, 1995.
- 3) Care will be taken that in any case the promotion prospects will not be less than what they were having in the Municipal Corporation and in case of such an eventuality, posts will be upgraded on personal basis by PSEB where Municipal employees would have been eligible for promotion under their rules earlier than integrated seniority.
- 4) In the meantime in the interest of smooth working and transition and based on the proposed exercise appropriate seniority on provisional basis. Once this exercise is done, the M.C.personnel will be eligible on provisional basis to all pay scales and allowances as admissible to PSEB employees in their respective cadres. They will also be eligible for being promoted etc.on the basis of provisional seniority.
- 5) The Board is further pleased to order that the settling of all establishment matter and issues pertaining to fixing of seniority, promotion and payment of pensions to the personnel of Municipal Corporation, Amritsar (Elec.Supply System), on their absorption, will be decided with the approval of Secretary Board, Admn.Member, Member/Operations and Chairman, PSEB. Such cases will be processed by respective Extt.Branch.”

4. The short controversy that arises now is whether or not the petitioner in view of the merger having taken place on 01.04.1995 can be treated to be as not the regular employee of the electricity board as on 01.01.1986 in view of the note *ibid*.

5. On conjoint perusal of the pleadings, it clearly emerges that it is not disputed that the petitioner was in regular employment with the Municipal Corporation prior to the merger. It is therefore, incomprehensible as to why he should not be deemed to be in regular employment of the Board w.e.f. 1966 itself. The Board cannot set up the legal fiction that as merger took place after the cut off date, therefore, the petitioner cannot be equated in parity with the regular employees of the Board who were in the regular employment prior to 01.01.1986. Once it is established that the petitioner was a regular employee of the Municipal Corporation prior to 01.01.1986 there remains no doubt that he was entitled to the benefit of circular No.39/89 (Annexure P-3) and on the ground of parity to be given the same benefit of master scale as was given to the similarly situated employees of the Board.

6. In view of the above discussion and the reasoning contained therein the impugned order dated 17.02.2004 (Annexure P-1) does not stand scrutiny of law and is accordingly, set aside with the direction to the respondents to accord the benefit of circular No.39/89 and the benefit of master pay scale to the petitioner on parity with those employees of the Board who were in the regular employment prior to 01.01.1986. Let the arrears arising as a consequence of this order be calculated from 38 months before the filing of this petition and disbursed within a period of three

months alongwith interest at the rate of 6% per annum.

7. Allowed in above terms.

November 27, 2019
dharamvir

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No