

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 23395 of 2014(O&M)

Date of Decision: 03.04.2019

Dilbagh Singh

... Petitioner

versus

Punjab State Power Corporation Limited & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. N.P.S. Mann, Advocate,
for the petitioner.

Ms. Meena Bansal, Advocate
for the respondents.

ARUN MONGA, J. (ORAL)

1. The petitioner, who stood retired more than two decades earlier, is up in arms before this Court questioning the legality and propriety of order, Annexure P-10 passed by the respondents by which his claim for regularization of his services is negated.

2. The uncontroverted stand of the petitioner, in nutshell, is that he joined the services of respondents as Work Charge Auto Foreman on 03.03.1966 and was removed from services on 06.05.1974 on the ground that he participated in the strike. He was again given appointment on 03.08.1976 on the same post. The petitioner claimed that during his service, in the year 1994, vide letter dated 18.08.1994 (Annexure P-1) respondents decided to regularize the services of work charge employees who had worked for more than 10 years as on 31.03.1994. The respondents vide letter dated 31.01.1995 (Annexure P-2) decided to extend the benefit of regularization, as per seniority. The petitioner was placed at

Sr. No.37. It is the case of the petitioner that he was not extended the benefit and he retired from the services on 01.12.1996. Representation dated 08.08.2000 (Annexure P-3) was filed, but it was not adverted to by the respondents, leading to the filing of a writ petition before this Court, which was ultimately decided on 29.08.2007 (Annexure P-5) with a direction to constitute a Committee for deciding the representation of the petitioner by passing a speaking order. It has come on record that thereafter, the respondents kept on agitating the matter before this Court as also before Hon'ble the Apex Court and finally passed the impugned order, Annexure P-10 and rejected the claim of the petitioner observing that the petitioner had already crossed the retirement age of 58 years and is not entitled to the benefit of regularization.

3. In the reply, the respondents did not dispute the factual and actual aspect of the matter. It is not disputed that the date of birth of the petitioner is 02.12.1936 and he retired on 01.12.1996. The stand taken is that the services of the petitioner were to be regularized as Assistant Lineman, on a Class-III post and when seniority list dated 31.01.1995 was issued, he had already crossed the retirement age of Class-III employees i.e. 58 years. The petitioner continued to work as Work Charge employee, a Class-IV post for which the retirement age is 60 years. Therefore, he is not given the benefit of regularization.

4. Learned counsel for the petitioner submits that the respondents acted arbitrarily while declining the relief of regularization to the petitioner. According to learned counsel, the respondents evasively took the plea that the petitioner had crossed the age of superannuation. According to him, as per letter dated 18.08.1994 (Annexure P-1), the date for grant of benefit of

regularization was reckoned as 31.03.1994 and admittedly, the petitioner was in service on that day and is entitled to the relief of regularization. He further submits that the petitioner cannot be made to suffer due to delay caused in extending the benefit of regularization to its employees by the respondents.

5. On the other hand, learned counsel for the respondents submits that the petitioner was rightly denied the benefit of regularization as he had crossed the age of superannuation on the day his case was considered for promotion to a Class-III post and only continued to work uptill 60 years on the Class-IV post.

6. I have heard learned counsel for the parties and gone through the paper-book carefully with their able assistance. I am of the considered view that the impugned order, Annexure P-10 does not stand the judicial scrutiny and is not sustainable.

7. The only stand taken vide impugned order, Annexure P-10 supplied to the petitioner vide letter dated 14.10.2013 (Annexure P-9) is that since the petitioner had crossed the age of 58 years as on the cut off date for grant of benefit of regularization, therefore, he is not entitled to the said benefit. A perusal of the impugned order shows that the same is self-contradictory. Admittedly, the petitioner was serving the respondents since 1976 and he superannuated on attaining the age of 60 years on 01.12.1996. He was less than 58 years on 31.03.1994, the crucial date. It is also conceded that he had to his credit more than 10 years of service as work charge employee as on cut-off date i.e. 31.03.1994 and was also placed at Sr. No.37 of the Seniority list for the purpose of appointment as regular 'Assistant Lineman'. Even when the letter dated 18.08.1994 (Annexure P-1)

for regularization of services of the work charge employees was issued, the petitioner was less than 58 years of age. The reasoning assigned in the impugned order flies in the face of the said factual background. Any undue delay on the part of the respondents in implementing the letter dated 18.08.1994, does not constitute a legal and valid ground to deny the relief to the petitioner. That apart, it is not the case of the respondents that the petitioner is otherwise not eligible for grant of benefit as per the Policy dated 18.08.1994, wherein the cut-off date was provided as 31.03.1994.

8. In view of my discussion above and the reasoning assigned, the impugned order is set aside. The petition is allowed with a direction to the respondents to regularize the services of the petitioner as 'Assistant Lineman' w.e.f. 31.03.1994 as per the Scheme of the PSEB applicable, at the relevant time.

9. One can understand the plight of a poor old employee who had to fight for more than 20 years, with multiple rounds of litigation, to get his legitimate right, which was withheld by the respondents for no valid reasons. In the circumstances, it is directed that the petitioner shall be paid all the consequential pecuniary benefits along with interest @8% per annum from the date of entitlement till the actual date of disbursement.

10. Needful be done within a period of three months, failing which the petitioner will be entitled to future interest @ 12% per annum.

(ARUN MONGA)
JUDGE

April 03, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |