

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.728 of 2014 (O&M)

Date of Decision: 16.01.2019

Mohan Lal and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajan Bhargav, Advocate for
Mr. Vishal Aggarwal, Advocate
for the petitioners.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Harsh Garg, Advocate
for respondent Nos.2 to 4.

ARUN MONGA, J. (ORAL)

The present petition has been filed in the nature of *mandamus*, seeking direction to the respondents not to effect any recovery from the pension of the petitioners on the basis of order dated 11.12.2013 (Annexures P-1 and P-2) whereby benefit of advance pay increment on completion of 23 years as Sewadar was earlier granted but was withdrawn vide the said order.

2. The petitioners were working with the Punjab State Power Corporation, Limited as Lower Division Clerk (Class-C) employees at time of the retirement.

3. Learned counsel for the petitioners contends that the monetary benefit once conferred on the Class-III and IV employees even on erroneous interpretation or application of any rule, regulation etc., without there being any fraud or misrepresentation on their part, cannot be withdrawn retrospectively in view of the judgment rendered by **Full Bench of this Court** titled as ***Budh Ram and others Vs.***

State of Haryana and others reported as 2009 (3) SCT 195 as also held by Hon'ble Supreme Court in the judgment rendered in ***State of Punjab Vs. Rafia Masih (White***

Washer) etc. reported as 2015(1) SCT. As the petitioners were the Class-III employees at the time of passing impugned order. Therefore, recovery is not permissible.

3. The learned counsel for the PSPCL contends that as far as the grant of the said benefit to the petitioners is concerned, the same was withdrawn retrospectively vide order dated 11.12.2013(Annexure P-1). However, vide Circular No.20 dated 01.10.2018 issued by PSPCL, petitioner are now entitled to the benefit of 23rd advance promotion increment on completion of 23 years of service but with prospective effect.

4. By as it may, without going in to the merits of the case suffice to say that at this stage, that the petitioners are protected in view of the judgments passed by Full Bench of this Court as also the Hon'ble Supreme Court of India as stated above. The monetary benefit conferred on the petitioners, even if erroneously, cannot be recovered. Particularly, in view of the fact that both the petitioners have since retired, w.e.f 30.04.2011 and 31.05.2011, respectively.

5. In these circumstances, the present petition is allowed and orders/Annexures P1 and P2, both dated 11.12.2013 are quashed and the respondents are directed not to effect any recovery from the pension of the petitioners on account of alleged mistake while granting benefit of advance promotion increment on completion of 23 years of service. No orders as to costs.

16.01.2019

rekha sharma

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*