

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

**CR No.6892 of 2019 (O&M)
Date of Decision : 01.11.2019**

**Superintending Engineer, Punjab State Electricity Board (OP),
Amritsar and another**

..... Petitioners

Versus

Avtar Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Shantanu Bansal, Advocate
for the petitioners.

SUDIP AHLUWALIA, J. (ORAL)

The petitioners are aggrieved with the decision of the Ld. Civil Judge (Senior Division), Amritsar in the impugned order dated 17.10.2018 (Annexure P-5) passed in connection with the Execution case No.1366 of 22.09.2017.

2. It has been contended by Ld. Counsel for the petitioners that the Order/Decree sought to be executed by the respondent-workman was silent about the date of his entitlement for promotion to the post of A.L.M., and that, as such, the Ld. Court below while executing the decision of the Presiding Officer, Industrial Tribunal, Amritsar in the concerned reference went beyond the scope of the Decree awarded.

3. The relevant extracts from the observations of the Ld.

Executing Court in its impugned order are set out as below:-

“No doubt, the D.H. was promoted as work-charge on 31.12.1990 and also paid an amount of Rs.1,03,472/- by calculating the difference for the period from 18.05.1995 to 23.10.2007 but the JDs have failed to implement the Award and did not promote the D.H. as an ALM from the date 18.05.1995 nor fixed his salary by treating him work-charge T-Mate from 31.12.1990 to 17.05.1995, as ALM from 18.05.1995 and failed to pay all the dues after fixing his salary. Agreeing with the arguments of Ld. Counsel for D.H., it is opined that Management was required to implement an award by promoting the D.H. as an ALM from 18.05.1995 by fixing his salary by treating him work-charge T-Mate from 31.12.1990 to 17.05.1995 and as ALM from 18.05.1995. JDs have failed to pay all the dues after promoting the D.H. as an ALM from the date 18.05.1995. As the JDs have to comply the decree in its letter and spirit, therefore, objections raised by JDs are of no consequence. Till date the JDs have failed to make the pay fixation and calculating the difference of scale till date. Accordingly, objections are ordered to be dismissed.”

4. On perusal of the original Award in the reference case on 15.05.2015, it is seen that the specific issues were framed:-

“1. Whether Avtar Singh workman is entitled to be promoted as A.L.M. and its pay scale after six years of service and is also entitled to pay scale of Work-charge T-Mate from 1990 to February, 1995, along with interest at the rate of 18%. If so, what should be the directions?

2. Relief.”

5. The decision of the Industrial Tribunal, Amritsar, in relation to the aforesaid issues was *“in view of my discussion, made on above issues, reference is answered in favour of the workman and against the managements. Workman is eligible to be promoted as a work-charge employee from 31.12.1990 and he is also entitled to the scale of work-charge employee from 31.12.1990 till 17.05.1995 as he was promoted on 18.05.1995. Managements are directed to pay all the dues to the workman after fixing his salary as per law without interest within three months of the publication of the award. Reader of this Tribunal is directed to forward three copies of this Award to Assistant Labour Commissioner,/Labur-cum-Reconciliation Officer, Amritsar, as required under Section 15 of the I.D., Act read with Notification No.S.O.66/C.A. 14/1947/S.17/2008 dated 01.10.2008.”*

6. Undoubtedly, there is no specific mentioned about the date from which the workman was entitled to be promoted as ALM. But in deciding the issues framed once the Tribunal had held that the reference was answered in favour of the workman and against the management, it must be construed to mean that issue No.1 itself was decided in favour of the Decree Holder-workman since in any case, undisputedly, he had already been promoted as an ALM, at a subsequent date, and the controversy before the Ld. Tribunal in that regard was, therefore, confined to his actual entitlement from a previous date which in the case happens to be 18.05.1995.

7. This Court, thus, finds no merit in the present petition, and the same is, hereby, dismissed.

(SUDIP AHLUWALIA)
JUDGE

November 01, 2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No