

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

CWP No.19550 of 2014
Date of decision : 8.1.2020

Randhir Singh

....Petitioner

versus

Haryana Vidyut Prasaran Nigam Ltd. and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Ashwani Talwar, Advocate with
Mr. Sahej Mahajan, Advocate, for the petitioner.

Mr. Avinash Kumar, Advocate for
Mr. Kuldeep Tiwari, Advocate, for the respondents.

Nirmaljit Kaur, J.

The present writ petition is filed seeking quashing of the order dated 9.10.2013, whereby, the case of the petitioner for stepping up of pay at par with that of his junior Satbir Singh, JE-I belonging to Scheduled Castes category, has been rejected or else at par with his junior Bindu Singh @ Bidhu Singh belonging to Scheduled Castes category.

It is contended that the petitioner belongs to General category and joined the Haryana State Electricity Board (HSEB) as S.A. (Adhoc) on 2.2.1970 and his services were regularized to the same post on 23.8.1978. The petitioner was promoted to the rank of Assistant Sub Station Attendant (ASSA) w.e.f. 13.2.1989 and was further promoted to the rank of Junior Engineer (JE-S/Stn.) w.e.f. 1.10.2008. The petitioner ultimately retired from the services of the respondent-Nigam on 31.7.2012 upon attaining the age of superannuation.

Reply has been filed. While denying the relief to the petitioner, the only ground stated in para No.5 of the reply is that the seniority has to

be maintained at circle level, whereas, Randhir Singh was initially appointed as SA on 23.8.1978 under Sonipat Circle, Rohtak and further promoted to the post of ASSA/GSA and SSA/GSO on 19.5.1983 and on 13.2.1989 respectively by the respective circle, whereas, Bindu Singh @ Bidhu Singh retired from a different circle and the petitioner is not entitled for stepping up of pay at par with Satbir Singh, JE-I, as he did not catch up with him at any level.

Learned counsel for the parties were heard at length.

In order to adjudicate, it would be appropriate to reproduce the service particulars of Randhir Singh, JE-I/Retd. and Bindu Singh @ Bidhu Singh, JE/Retd., which is reproduced and admitted by the respondents in their reply:-

Name of Retiree S/Shri	DOJ as SA	ASSA/GSA	SSA/GSO	DOJ as JE	Retired
Randhir Singh, JE/Retired/ General	23.8.1978 XEN OP UHBVN Sonapat	19.5.1983 XEN OP UHBVN Sonapat	13.2.1989 XEN OP UHBVN Sonapat	1.10.2008 XEN TS Division HVPN Panipat	31.7.2012 XEN TS Division Panipat
Bindu Singh @ Bidhu Singh, JE/Retired/ (S.C.)	6.6.1979 XEN/OP, Divn. HSEB Ballabgarh Under SE/ Faridabad	16.12.1981 Under SE/OP Circle, HSEB Faridabad	17.3.1986 XEN/ T&S Mtc. Divn. HSEB, Faridabad	10.8.1990 XEN/S/Urb as Divn No.II, HSEB, Karnal	30.4.2012

It is evident from the order that the petitioner was senior and caught up with Bindu Singh @ Bidhu Singh at every stage of promotion who was promoted earlier on account of reservations. As per the instructions dated 5.3.2009 (Annexure P-2) issued by the Finance Department Government of Haryana, the benefit of stepping up of pay was extended to General category employees at par with that of their junior

counterparts of reserved category at level-2 counter parts. It was provided that the officials/officers concerned will be entitled to the benefit of pay and allowances notionally from the date their juniors belonging to reserved categories were promoted and actual benefit of stepping up of pay will be admissible to them from the actual date of promotion in their respective cadres. Vide notification dated 23.11.2009 (Annexure P-3), it was clarified by the State Government that there cannot be the lower cut-off date in terms of the seniority as envisaged in the judgment rendered by the Hon'ble Apex Court in the case of R.K.Sabharwal and others vs. State of Punjab and others, (1995) 2 SCC 745.

In view of the above, the petitioner is entitled to the notional step up of pay as per instructions dated 5.3.2009 (Annexure P-2) and notification dated 23.11.2009 (Annexure P-3) alone from the date Bindu Singh @ Bidhu Singh was promoted.

The argument that the seniority has to be taken circle wise also does not help in the facts of the present case inasmuch as the seniority during the period from the years 1980 to 2010, which is relevant for the purpose of the instant writ petition because as far as the rank SSA is concerned, it was combined and maintained at the head office level and the authority at that point of time with respect to the promotion to the rank of JE from the rank of SSA was also within the power of head office. This is evident from the letter dated 9.5.2019 received by the petitioner in pursuance to the information sought under the Right to Information Act, 2005. The said letter is placed on record as Annexure P-8.

Learned counsel for the respondents has also not been able to rebut the document Annexure P-9, which is an order dated 22.10.2018

passed by the Haryana Vidyut Prasaran Nigam Ltd., vide which, the benefit of step up in the pay fixation has been granted to one B.R. Ahuja, JE-I/Retd. at par with his counter parts Vijay Singh, JE-I/retd. and Ram Phal Verma, JE-I/Retd. even though they are at different circle from their counter parts. The petitioner cannot be treated different vis-a-vis other similarly situated employees, as has been held by the Hon'ble Apex Court in the case of Union of India and others vs. Satya Brata Chowdhury and others, 2009(2) SCT 365.

In view of the above, the present writ petition is allowed. The order dated 9.10.2013 (Annexure P-1) is quashed. The petitioner is entitled to step up of pay at par with that of his junior by granting notional step up of pay at par with that of his junior Bindu Singh @ Bidhu Singh till the level-3 i.e. ASSA, SSA & JE. After the pay fixation, the consequential benefits as above shall be released to the petitioner forthwith.

(NIRMALJIT KAUR)
JUDGE

8.1.2020
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No