

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

CWP No.9092 of 2015 (O&M)

Date of Decision:15.01.2020

Prem Chand

.....Petitioner

Versus

The Punjab State Power Corporation Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. A.K. Walia, Advocate for the petitioner.

Ms. Promila Nain, Advocate for respondents No.1 and 2.

Mr. Sachin Mittal, Advocate for respondent No.3.

TEJINDER SINGH DHINDSA J.(Oral)

Petitioner who was initially an employee of the Punjab State Power Corporation Limited and working in the office of the Chief Engineer/Generation (PW) BBMB, Nangal, on the post of Divisional Head Draftsman, was issued promotion order dated 26.09.2014 on the post of Circle Head Draftsman. Petitioner submitted a representation seeking permission to forego such promotion. Such representation has been dealt with by the Punjab State Power Corporation Limited by passing of office order dated 10.04.2015 (Annexure P-6/T). The permission sought by the petitioner to forego promotion was accepted and he was debarred from promotion for a period of three years w.e.f. 26.09.2014 subject to the following conditions:-

“(i) The official will not be eligible for promotion for a period of three years.

(ii) After expiry of the period of 3 years, the official shall be again considered for promotion only on the basis of his representation.

(iii) The higher pay scales granted to the official after completion of 9/16/23 years of service as per instructions

issued by PSPCL, shall be withdrawn.”

Instant writ petition has been filed assailing the afore-noticed condition at (iii) contained in the order dated 10.04.2015 (Annexure P6/T).

Counsel for the parties have been heard and pleadings on record have been perused.

The uncontroverted facts that emerge are that the petitioner was granted the benefit of promotional pay-scale/increment on completion of 9 years on a particular post/cadre vide order dated 25.11.1994 made effective from 26.05.1992. Thereafter, he was accorded the benefit of the promotional scale on completion of 16 years of service vide order dated 09.02.2000 w.e.f. 26.05.1999. Petitioner was thereafter released the benefit of promotional increment upon completion of 23 years of service vide order dated 25.01.2007 to be made effective w.e.f. 26.05.2006.

The precise question that arises for consideration is as to whether the benefit of higher pay-scale/promotional increments that the petitioner had already earned, could be withdrawn on account of the petitioner foregoing an offer of promotion in the year 2014?

In the considered view of this Court, the answer to the poser framed hereinabove has to be in the negative.

The purpose and objective of grant of time bound promotional scale/increments is to alleviate stagnation in service wherein an employee who otherwise is eligible is not promoted. Petitioner concededly was granted the promotional scale/increments upon completion of 9 years, 16 years and 23 years of service on the same very post.

The order of promotion came to be passed on 26.09.2014 i.e. much thereafter and which the petitioner chose to forego. Under no circumstances can the step of the petitioner of having foregone promotion

in the year 2014 take away the financial benefits of promotional scale/increments that he had already earned in the years 1992, 1999 and 2006. In taking such a view this Court would draw support from the judgement dated 12.08.2010 passed by a ***Coordinate Bench in CWP No.2587 of 2009 titled as Rattan Chand Versus Punjab State Electricity Board and others (Annexure P-8).***

That apart the action of the respondent-Corporation in having taken a decision to withdraw the financial benefits already released to the petitioner upon completion of 9/16/23 years of service is in clear violation of the principles of natural justice. Needless to observe that by virtue of the impugned condition No.(iii) in the order dated 10.04.2015 (Annexure P-6/T), the petitioner was to be visited with adverse civil consequences. Accordingly, it was imperative upon the employee/respondent-Board to have serve a notice and to have heard the petitioner. Concededly, petitioner was neither heard nor served with a notice prior to insertion of the offending clause in the order dated 10.04.2015 (Annexure P-6/T).

It would be apposite to take note that vide order dated 28.05.2015 passed by this Court, condition No.(iii), contained in the order dated 10.04.2015 (Annexure P-6/T) had been stayed. Court has been apprised that the petitioner has since superannuated.

In view of the discussion hereinabove writ petition is allowed. Condition No.(iii) contained in the order dated 10.04.2015 (Annexure P-6/T) stands quashed.

(TEJINDER SINGH DHINDSA)
JUDGE

January 15, 2020

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No