

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 2101 of 2020 (O&M)

Date of Decision:10.08.2022

Ravinder Singh

.....Petitioner

Versus

The Punjab State Power Corporation Limited and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr. Alok Mittal, Advocate
for the respondents.

LISA GILL, J(Oral).

Prayer in this writ petition is for quashing impugned office order dated no.2108/GM dated 04.12.2018, Annexure P-3, passed by respondent no.2 and further for quashing impugned letter dated 03.01.2019, Annexure P-4. There is a further prayer for a direction to the respondents to restore the benefits and original pay of the petitioner and to refund the amount recovered with interest at the rate of 12% per annum from the date of recovery till actual payment and to re-fix the pay and pensionary benefits of the petitioner accordingly.

It is submitted that petitioner was appointed as unskilled worker on 18.08.1994 with the respondent-department and thereafter designated as skilled worker on regular basis on 23.01.2008. In terms of instructions dated

23.04.1990, issued by the erstwhile Punjab State Electricity Board, now represented by respondent no.1-Punjab State Power Corporation Limited, benefit of First Time Bound Pay scale was afforded to the petitioner after completion of 9 years of service. Petitioner was granted the Second Time Bound higher pay scale after completion of 16 years of service vide order dated 07.06.2013 w.e.f., 18.08.2010.

It is submitted that the petitioner was promoted to the post of Junior Plant Attendant vide order dated 13.05.2016, but due to certain peculiar problems faced by him, petitioner opted to forego promotion. Representation in this regard was also submitted by the petitioner, which was accepted. Order dated 02.08.2016 was passed permitting the petitioner to forego promotion by debarring him for promotion for a period of three years. It is stated that petitioner retired from service on 31.10.2018. However order dated 04.12.2018 was passed withholding the Second Time Bound higher pay scale granted to him vide order dated 07.06.2013 w.e.f., 18.08.2010 permanently. It is submitted that petitioner having no option and under duress, submitted letter dated 03.01.2019 to the effect that recovery has to be effected due to foregoing of promotion and the same may be done from the amount of his leave encashment.

It is contended that petitioner, a retiree had no option but to submit communication dated 03.01.2019, in order to secure release of rest of his benefits. However, order dated 04.12.2018 has been passed without any basis and petitioner's pay was wrongly re-fixed vide Annexure P-6 and recovery of Rs. 3,53,731/- effected from the amount of leave encashment due to the petitioner. This action on the part of respondents is stated to be illegal, arbitrary, violative of Instructions dated 23.04.1990 and hence liable to be set aside. It is thus prayed that this appeal be allowed.

Reply on behalf of the respondents has been filed. However, learned counsel for the respondents is unable to deny that petitioner was afforded the benefit of Second Time Bound pay scale vide order dated 04.12.2018 w.e.f., 18.08.2010 much before petitioner's promotion to the post of Junior Plant Attendant which came around only on 13.05.2016.

Learned counsel for the respondents is further unable to deny that the matter is squarely covered by **decision dated 12.08.2010**, passed in **CWP No. 2587 of 2009, titled Rattan Chand Vs. Punjab State Electricity Board and others**, wherein an identical question was involved for consideration i.e., "whether an employee having declined the offer of promotion at a later stage, incurred any disqualification to draw the Time Bound Promotional Scales earlier granted to him under Policy decision dated 23.04.1990."

Similar grounds as have been taken by the respondents in the present writ petition, were raised by the erstwhile Punjab State Electricity Board before the Court with the same being negated. It was observed in **Rattan Chand's case (supra)** as under:-

"(10). The clarificatory Circular dated 26.07.1990 (Annexure R3/1) nowhere provides nor it can lead to such absurd consequences that a promotion offered after 16 years of service would take away the service benefit given to an employee on completion of 9 years' service. Since the petitioner never refused to accept the promotion before he was granted the time-bound promotional pay scales on completion of 9/16 years of service, the subsequent offer for such promotion and that too at the fag end of his career, cannot take away the time bound promotional scales which were rightly granted to him being a stagnated employee.

(11). The impugned action of the respondents deserves to be

struck down also being violative of the principles of natural justice. The withdrawal of the promotional pay scales has far-reaching civil consequences including reduction in the petitioner's pension and other retiral dues. Unfortunately, the respondents have acted with such a closed mind that they did not deem it proper to hear the petitioner before passing the order under challenge and that too at the time of his farewell on retirement."

Learned counsel for the petitioner is unable to point out anything on record which distinguishes the petitioner's case disentitling him from the relief claimed. Keeping in view the facts and circumstances as above, order dated 04.12.2018, is set aside. Respondents are directed to restore the Time Bound Promotional pay scales to the petitioner besides refund the amount of Rs. 3,53,731/- deducted from the amount of leave encashment. Respondents shall further re-fix the pension and other retiral dues of the petitioner accordingly. Deducted amount as well as arrears of promotional pay scales, pension etc., be released to the petitioner along with interest at the rate of 6% per annum. Needful be done within a period of three months from the date of receipt of certified copy of this order.

Writ petition is accordingly allowed.

10.08.2022

s.khan

[LISA GILL]
Judge

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