

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

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CWP-15328-2017

Date of decision : 22.09.2022

Amarpreet Singh Walia

... Petitioner

Versus

Punjab State Power Corporation Ltd. and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Ashok Sharma Nabhewala, Advocate for the petitioner.

Mr. Sehajbir Singh, Advocate for the respondents.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the orders dated 28.06.2017 and 30.06.2017 (Annexures P-8 and P-9) whereby the benefit of 1st and 2nd ACP scales has been withdrawn.

Learned counsel for the petitioner submits that the petitioner had been granted the benefit of 1st and 2nd ACP scales after completion of 09 and 16 years of service respectively. The petitioner had been offered promotion to the post of Sub-Station Officer in the year 2016. He had foregone the promotion and therefore, the respondents had taken away the benefit of 1st and 2nd ACP scales while passing the impugned orders (Annexures P-8 and P-9), which had already been granted to him. The respondents are also intending to effect recovery which is impermissible under the law and the ACP scales could not have been withdrawn. The petitioner could have been denied the benefit of further promotional pay scale after he had foregone the promotion. He has relied upon the judgment of this Court in the case of **Rattan Chand versus**

Punjab State Electricity Board and others, bearing CWP No.2587 of 2009, decided on 12.08.2010.

Heard.

The petitioner is stated to have appointed as Sub-Station Attendant on 13.02.1997 in the pay scale of Rs.1200-30-1560-40-2000-50-2200. Upon completion of 09 years of service, he was granted 1st ACP scale on 03.10.2006 and was placed in the pay scale of Rs.5900-10000. After completing 16 years of service, he was granted 2nd ACP scale on 07.02.2014 and was granted the pay scale of Rs.10900-34800+4800 Grade Pay. He was offered promotion as Sub Station Officer on 07.09.2016 which he had declined. His request was accepted and his promotion was deferred for three years. However, the benefit of 1st and 2nd ACP scales, which had already been granted to the petitioner, had been withdrawn by the impugned orders (Annexures P-8 & P-9) and the recovery was ordered for the excess amount already paid to him.

This Court, in somewhat similar circumstances, in the case of **Rattan Chand versus Punjab State Electricity Board and others(supra)**, had set aside the orders of withdrawing the time bound promotional scale, which had already been granted to the petitioner therein, prior to the refusal to accept the promotion.

The petitioner had already been granted 1st and 2nd ACP scales as he could not be promoted despite having 09/16 years of service. This benefit had been granted to him for eradicating stagnation in service after having completed 09/16 years of service. He had foregone the promotion subsequently but the benefit, which had already been granted to him on account of previous stagnation in service, cannot be taken away.

Consequently, the petition is allowed and the impugned orders dated 28.06.2017 and 30.06.2017 (Annexures P-8 and P-9 respectively) are set aside. The respondents are directed to restore the benefit of 1st and 2nd ACP scales granted to the petitioner on his completing 09/16 years of service respectively, within a period of three months from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

September 22, 2022

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No