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

CWP-13680-2018

Date of Decision: 13.05.2022

Paramjit Kaur

..... Petitioner

Versus

The Punjab State Power Corporation Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramandeep Singh Pandher, Advocate,
for the petitioner.

Mr. Kshitij Sharma, Advocate, and
Ms. Shruti Sharma, Advocate,
for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the petitioner was appointed as a Steno Typist with the respondents on 07.04.1986 and continued working as such till the date of her retirement, i.e. till 28.02.2017. After her retirement, while refixing the pensionary benefits, the respondents found that the benefits of promotional scales extended to her after a period of nine and sixteen years of service, were wrongly extended to her, as she was not eligible for the said benefit keeping in view the fact that she had not passed the Second Language Type Test, due to which fact, the pay of the petitioner was re-fixed by the respondents and consequent recovery was ordered to be effected from the petitioner after her retirement. The letters dated 04.10.2017 and 06.10.2017, being Annexures P-3 and P-4, respectively, vide which pay of the petitioner is re-fixed and the recovery is ordered to be effected from the petitioner by the respondents, are under challenge in the

present petition.

Learned counsel for the petitioner argues that in the present petition, the respondents have passed an order of re-fixation of the petitioner's salary, by treating her ineligible for the benefits of grant of promotional scales, which have been extended to her after a period of nine and sixteen years of service, without going through the notification dated 19.04.2004, issued by the respondent-Board, according to which, the Steno Typists, who were recruited or promoted after 01.10.1982, are to be given exemption from passing the Second Language Type Test, in case they have already crossed 50 years of age. Learned counsel for the petitioner further submits that while recruiting the petitioner, no clause of passing the Second Language Type Test in order to get promotion was mentioned in her appointment letter issued by the respondents, and therefore, the petitioner's pay has wrongly re-fixed by the respondents after her retirement and that too without considering the actual rules governing the said aspect.

Upon notice of motion, the respondents have filed the reply, wherein they have reiterated their stand that the petitioner was required to pass the Second Language Type Test in order to get the promotional scale, which requirement she did not do until the date of her retirement, and therefore, the benefits of promotional scales granted to her after the period of nine and sixteen years of service, have wrongly been extended to her by the respondents.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, nothing has come on record to rebut the averment made on behalf of the petitioner that at the time when she was

recruited by the respondents, no condition was mentioned in her appointment order, issued by the respondents, with regard to the fact that she is required to pass the Second Language Type Test in order to get the promotional scale. Further, in the notification dated 19.04.2004, issued by the respondent-Board, a copy of which has been appended as Annexure P-5 to the present petition by the petitioner, the Steno Typists, who were recruited after 01.10.1982 and crossed the age of 50 years, are even exempted from the condition of passing of the Second Language Type Test in order to get the promotion. Further, it has been mentioned in the said notification dated 19.04.2004 that in case no condition of passing the Second Language Type Test in order to get the promotion is mentioned in the appointment order of the employees, those employees are exempted from passing the said type test. That being so, the respondents could not have withdrawn the benefits of promotional scales given to the petitioner after nine and sixteen years of her service.

The respondents have not been able to rebut the contentions as being raised on behalf of the petitioner in their reply. From the pleadings as well the document on record, it cannot be said that the petitioner was ineligible to get the benefits of promotional scales after nine and sixteen years of her service. That being so, the re-fixation of her pay by the respondents is totally arbitrary and illegal and also without considering the actual facts.

In view of the above, the letters dated 04.10.2017 and 06.10.2017, being Annexures P-3 and P-4, respectively, are set aside. The recovery, if any, which is being effected from the petitioner on the basis of the said re-fixation of her pay is also set aside. Keeping in view the order

passed today, in case the petitioner is found entitled for grant of any monetary benefits, the respondents are directed to calculate the said amount within a period of two months from the date of receipt of the copy of this order and further grant the petitioner the monetary benefits, so calculated, within a period of one month thereafter.

Allowed in the above terms.

13.05.2022*Apurva***(HARSIMRAN SINGH SETHI)****JUDGE**

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