

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.220

CWP No.21810 of 2016

Date of Decision: 06.07.2022

Kishan Chand Prabhakar

.... Petitioner

Versus

Haryana Power Generation Corporation
Limited and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.L.Arora, Advocate
for the petitioner.

Mr. Lokesh Sinhal, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed seeking quashing of the order dated 27.06.2016 (Annexure P-16), by which the claim of the petitioner for step up pay equivalent to his junior Tota Ram Atal, has been declined.

As per the averments made in the petition, the petitioner was senior to one Tota Ram Atal, who was appointed after approximately 4 years of the promotion of the petitioner as Upper Division Clerk and was approximately 200 steps junior to the petitioner in the seniority list in the said cadre. As Sh. Tota Ram Atal belonged to the reserved category, he was promoted to the post of Head Clerk ahead of the petitioner. The petitioner retired from service on 31.08.2000 as a Circle Superintendent.

Sh. Tota Ram Atal was promoted as Administrative Officer on

01.07.1991 and at the time of actual retirement of the petitioner, Tota Ram

Atal was working on the promoted post of Administrative Officer whereas the petitioner retired as Circle Superintendent. After his retirement, the petitioner filed a Civil Writ Petition No.17135 of 2005 claiming the promotion to the post of Administrative Officer, which writ petition was disposed of by this Court with the direction to the respondent to consider the claim of the petitioner and pass appropriate order. In pursuance of the direction given by this Court, the respondent passed an order on 11.06.2010 (Annexure P-5) granting the promotion to the petitioner to the post of Administrative Officer w.e.f. 01.03.1999 but without any back wages for the period the petitioner did not discharge the duties of the post of Administrative Officer. After the passing of the order dated 11.06.2010, by which the petitioner was granted promotion to the post of Administrative Officer, the petitioner claimed the benefit of step up pay equivalent to that of Tota Ram Atal on the ground that the petitioner was senior to Tota Ram Atal in the cadre of Lower Division Clerk as well as Head Clerk and had caught up the said Tota Ram Atal in the cadre of Administrative Officer prior to his retirement and therefore, keeping in view the judgment of Hon'ble Supreme Court of India in the case of **Ajit Singh Jangua versus State of Punjab, AIR 1999 SC 3471-2000(1)-SCT-SC-770**, the petitioner regained the seniority over and above Tota Ram Atal and therefore, should be granted the benefit of step up pay equivalent to that of Tota Ram Atal. As the grant of the said benefit was declined to the petitioner by the impugned order dated 27.06.2016 on the ground that the petitioner had not caught up Tota Ram Atal on the post of Administrative Officer, the said order is under challenge in the present petition.

reply, wherein the respondents have admitted the issuance of the order dated 11.06.2010 granting the petitioner the benefit of promotion to the post of Administrative Officer w.e.f. 01.03.1991 but learned counsel for the respondent defended the impugned order on the ground that the petitioner did not, in fact, actually discharge the duties of the Administrative Officer, due to which, he can not claim the benefit of step up pay.

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

It is a conceded fact that after the retirement, the respondent considered the claim of the petitioner for the promotion to the post of Administrative Officer and vide order dated 11.06.2010 (Annexure P-5), the petitioner was granted the notional promotion to the post of Administrative Officer starting from 01.03.1999. Once the notional promotion is granted to the petitioner to the post of Administrative Officer, it can not be said that the petitioner did not catch his junior Tota Ram Atal in the said cadre. It has not been denied by the respondent that the petitioner was senior to Tota Ram Atal in the cadre of Upper Division Clerk and Tota Ram Atal only got accelerated promotion to the post of Head Clerk, Circle Superintendent and Administrative Officer on the basis of reservation.

That being so, keeping in view the settled principles of law that once general category candidate catches up his junior, who was granted benefit of accelerated promotion on the basis of reservation, the General Category employee regains the seniority, hence, the petitioner is to be treated as senior to Tota Ram Atal as on 01.03.1999 in the cadre of Administrative Officer after the petitioner was also given the promotion to the post of Administrative Officer. That being so, the petitioner regained the

seniority over Tota Ram Atal and also the right for fixation of his salary equivalent to that of his junior Tota Ram Atal.

Prayer of the petitioner is allowed as the petitioner is concededly senior to Tota Ram Atal and on the date of his retirement, the petitioner was deemed to be discharging the duties of the post of Administrative Officer keeping in view the order dated 11.06.2010 passed by the respondents themselves, hence, is entitled for a pay equivalent to the one being granted to his junior Tota Ram Atal. Hence, the respondents are directed to grant the petitioner the benefit of step up pay equivalent to that of Tota Ram Atal. As the promotion was granted to the petitioner to the post of Administrative Officer only in the year 2010 and the petitioner had approached the respondents by way of representation in the year 2015 claiming the relief in question, i.e. the benefit of step up pay and the present petition was filed in the year 2016, the benefit of arrears will be granted to the petitioner from the date of filing of the representation i.e.15.06.2015 onwards.

No other point was argued.

Let the present order be complied with within a period of two months from the date of receipt of a certified copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

06.07.2022
Maninder

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