

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CWP-570-2016

Date of Decision :11.10.2022

Satya Narain Sharma

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Chaudhary Advocate for the petitioner.

Mr. Parveen Mehta, Advocate for the respondents.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the claim of the petitioner is that the petitioner is entitled for step up of his salary equivalent to one Pritam Singh, who was junior to the petitioner in all the cadres but was granted the benefit of accelerated promotion on the basis of the reservation and the petitioner having caught the said junior in subsequent promotions, thereby becoming entitled for step up of his pay and revision of pension and other consequential benefits.

The facts leading to the present petition are that the petitioner who belongs to the general category joined the erstwhile Haryana Electricity Board on 18.03.1980 as Shift Attendant and was further promoted as Assistant Sub Station Attendant on 08.01.1990. Thereafter, the petitioner was promoted as Sub Station Attendant vide order dated 04.06.1992 and

was ultimately promoted as Junior Engineer on 20.03.2013. The claim of

the petitioner is that another employee namely, Pritam Singh, who belonged to reserved category of Scheduled Caste also joined erstwhile Haryana Electricity Board as Shift Attendant on 08.06.1982 and was promoted as Assistant Sub Station Attendant on the basis of reservation prior to the petitioner on 29.01.1987 thereafter the said Pritam Singh was further promoted as Sub Station Attendant on 08.04.1987 and, thereafter, promoted as Junior Engineer on 01.02.1994 again on the basis of reservation. The claim of the petitioner is that as the petitioner had caught the said Pritam Singh in the cadre of Sub Station Attendant in the year 1992, the petitioner is entitled for step up of his pay equivalent to the said Pritam Singh in the cadre of Sub Station Attendant or in the alternative as the petitioner got promotion to the post of Junior Engineer prior to the retirement of said Pritam Singh, who retired on 31.08.2013, the petitioner had caught Pritam Singh in the cadre of Junior Engineer so as to become entitled for stepping up of his pay.

After notice of motion, the reply has been filed by the respondents, wherein, the claim of the petitioner has been contested. As per the reply though, the petitioner and the said Pritam Singh were initially appointed in Haryana Electricity Board but the said Board was bifurcated into four units in the year 1999 and the petitioner was allocated HVPNL whereas, the said Pritam Singh was posted at UHBVNL hence, the petitioner is not entitled for the grant of step up of his pay by treating the petitioner senior to said Pritam Singh.

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

The claim of the petitioner is that once the petitioner had

caught his junior namely, Pritam Singh in the cadre of Sub Station Attendant on 04.06.1992, the petitioner being senior to him in the feeder cadre regained the seniority and therefore, he is to be treated senior to said Pritam Singh in the cadre of Sub Station Attendant starting from 04.06.1992 and his salary needs to be stepped up and placed reliance upon the judgement passed by the Hon'ble Supreme Court of India in **Ajit Singh Januja vs. State of Punjab (1996) 2 SCC 715**.

Now the question arises as to whether the judgment passed in **Ajit Singh Januja's case (supra)** can be made applicable prior to the date when the same was passed by the Hon'ble Supreme Court of India in 1996. The judgment in Ajit Singh Januja's case (supra) is prospective in nature and not retrospective and can only be made applicable starting from 1996 onwards. Therefore, it is to be seen as to whether when the judgment in Ajit Singh Januja's case (supra) was passed, the petitioner and his colleague Pritam Singh were working on the same post in the same cadre or not.

The date when the said judgment of the Hon'ble Supreme Court came into effect, Pritam Singh was working on the post of Junior Engineer whereas, the petitioner was still working on the post of Sub Station Attendant. Therefore, keeping in view the above, the claim of the petitioner for stepping up of his pay in the cadre of Sub Station Attendant is not covered by the judgement in Ajit Singh Januja's case (supra) and the relief cannot be granted to him. Relevant paragraph of the judgment of the Hon'ble Supreme Court of India in **Appeal (Civil) No.3792 of 1989** titled as **Ajit Singh and others vs. State of Punjab and others** decided on 16.09.1999 clarifying the aspect of prospectivity is as under:-

“Coming to the 'prospectivity' of Ajit Singh, decided on 1.3.96 the question is in regard to the seniority of the reserved candidates at the promotional level where such promotions have taken place before 1.3.96.

We have accepted, while dealing with Points 1 and 2 that the reserved candidates who get promoted at two levels by roster points (say) from Level 1 to Level 2 and level 2 to level 3 cannot count their seniority at Level 3 as against senior general candidates who reached Level 3 before the reserved candidates moved upto Level 4. The general candidate has to be treated as senior at Level 3. Where, before 1.3.96,i.e. the date of Ajit Singh's judgment , at the level 3, there were reserved candidates who reached there earlier and also senior general candidates who reached there later, (but before the reserved candidate was promoted to level 4) and when in spite of the fact that the senior general candidate had to be treated as senior at level 3 (in view of Ajit Singh), the reserved candidate is further promoted to level 4 - without considering the fact that the senior general candidate was also available at level 3 - then, after 1.3.96, it becomes necessary to review the promotion of the reserved candidate to level 4 and reconsider the same (without causing reversion to the reserved candidate who reached level 4 before 1.3.96). As and when the senior reserved candidate is later promoted to level 4, the seniority at level 4 has also to be refixed on the basis of when the reserved candidate at level 3 would have got his normal promotion, treating him as junior to the senior general candidate at level 3. Chander Paul Vs. State of Haryana (1997(10) SCC 474) has to be understood in the manner stated above.”

As far as the claim of the petitioner that even in the cadre of Junior Engineer, the petitioner had caught the said Pritam Singh as the petitioner had got promoted to the post of Junior Engineer prior to the date of retirement of the Pritam Singh, the same is also of no consequence. It is a conceded position that in the year 1999, Haryana Electricity Board was

bifurcated into four units and the petitioner was allocated HVPNL whereas, the said Pritam Singh was posted at UHBVNL. That being so, on the date of the promotion of the petitioner, Pritam Singh was not working in the same cadre so as to give benefit of seniority to the petitioner over and above the said Pritam Singh in the cadre of Junior Engineer. Once, the petitioner and Pritam Singh were working in different entities without there being common seniority, the grant of promotion to the petitioner to the post of Junior Engineer in the year 2013 cannot be in any manner treated as catching up to Pritam Singh in the cadre of Junior Engineer, therefore, no benefit as being claimed by the petitioner for stepping up of his pay in the cadre of Junior Engineer can be extended to him.

Keeping in view the facts and circumstances noticed hereinbefore, no ground for interference by this Court is made out and the present writ petition is accordingly dismissed.

October 11, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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