

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

CWP-7606-2018

DATE OF DECISION: 01.08.2022

SUDHIR SHARMA & ANR.

... Petitioner(s)

Versus

PUNJAB STATE POWER CORPORATION LTD., MALL ROAD,
PATIALA THROUGH ITS CHIEF MD

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ashish Grover, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Addl. AG, Punjab.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have sought quashing the orders dated 11.07.2017, 10.07.2017 & 14.09.2017 (Annexure P-8 to P-10) whereby the pay scale has been reduced and recovery has been effected.

Learned counsel for the petitioners submits that the petitioners, who are working as Junior Plant Attendants in 1998 have been promoted. They were later promoted as Shift Chemist which is a Class 3 post. The petitioner No.1 was promoted in 2009 while petitioner No.2 was promoted in 2014. They were granted time bound promotion scheme and in terms of the scheme their pay scale had been enhanced. The respondents have passed the impugned orders without any opportunity of hearing and or any notice to the petitioners. He has cited the judgment of the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih** reported as **2015 (2) SCC (Civil) 608** in support of his submission that recovery from Class 3 employee for an amount which has been paid to them without any misrepresentation for several years could not be effected. Learned counsel for the petitioners also submits that the petitioners are entitled to the pay scale under the time bound promotion scheme and would be filing a detailed representation in this regard and the respondents may be directed to consider and decide the same.

Learned counsel for the respondents submits that as the petitioners had been erroneously granted the time bound scheme and after this

mistake had come to light the impugned orders had been passed. She also submits that the respondents are entitled to recover the amount without causing any hardship to the petitioners through easy instalments.

Heard.

The petitioners had been promoted to the post of Shift Chemist which is a Class 3 post. The impugned orders have been passed without any notice or an opportunity of hearing. This Court by order dated 27.03.2018 had stayed the operation of the impugned orders. The petitioners had been paid the higher pay scale without there being any misrepresentation on their part. In view of the judgment of the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih** (supra) especially when the payment had been made to the petitioners without any misrepresentation and recovery is being sought after several years, I am of the considered opinion that it would be unjust to recover the amount from the petitioners.

Consequently, the petition is allowed and the impugned orders Annexures P-8 to P-10 are set aside.

In the event of the petitioners preferring a representation to respondents for grant of time bound promotion scheme, respondent No.2 will consider and decide the same by passing a speaking order within a period of 3 months from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

01.08.2022

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No