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2023:PHHC:166566

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-12971-CWP-2016 in/and
CWP-15549-2012

Date of decision : 18.08.2023

Sanjay Jindal

...Petitioner

Vs.

The Punjab State Power Corporation Ltd.
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. A.K.Walia, Advocate
for the petitioner.

Mr. A.S.Chadha, Advocate
for the respondents.

DEEPAK MANCHANDA, J.(Oral)

CM-12971-CWP-2016

This application has been filed under Section 151 CPC for disposing of the main case in terms of the decision rendered by this Court in CWP-2587-2009, decided on 12.08.2010 titled as "*Rattan Chand Vs. Punjab State Electricity Board and others*".

Vide order dated 03.04.2013, the matter was admitted and ordered to be listed within six months. During pendency of the matter, the aforesaid application was filed, wherein on 06.12.2016, notice in the application was issued.

Today, learned counsel for the applicant-petitioner submits that the present petition can be disposed of in view of the decision dated

12.08.2010.

On the oral request of learned counsel for the parties, the main case is taken on today's board.

Main case

This petition has been filed under Article 226/227 Constitution of India for issuance of a writ in the nature of certiorari for quashing the order bearing No.443 dated 16.08.2011 (Annexure P-6) issued by respondent No.2, whereby the benefit of higher pay scale granted to the petitioner after completion of nine years of service was withdrawn.

Learned counsel for the petitioners submits that the issue raised in the present petition has already been dealt with by this Court in CWP-2587-2009 (Annexure P-7) titled as “***Rattan Chand Vs. Punjab State Electricity Board and others***”. He prays that present petition be disposed of in the same terms and has also produced the copy of the order dated 27.02.2023 passed in CWP-25103-2014, titled as “***Harbinderjit Singh Vs. The Punjab State Power Corporation Ltd., & others***”, which has been allowed by referring above mentioned case by the Coordinate Bench.

The above fact is not disputed by the learned counsel representing the respondents and he does not oppose the prayer made by learned counsel for the petitioner.

I have heard counsel for the parties and have gone through the case file carefully.

This Court vide above-mentioned writ petition decided the controversy in question by passing a detailed order. The case of the petitioner is squarely covered by the aforesaid judgments and the operative part of the

order dated 27.02.2023 passed in CWP-25103-2014 relying upon the order dated 12.08.2010 (Annexure P-7) passed in CWP-2587-2009 reads as under:-

“13. I, however, do not find any merit in the contention noticed above. Firstly, the respondents withdrew the promotional pay scales without any notice to petitioner. He still expected justice and represented the authorities, followed by more than on reminders. The respondents deliberately slept over the matter and took no decision until commanded by this Court in the previous writ petition. The respondents, thus, cannot take advantage of their own per se illegal action. Secondly, the impugned action has led to reduction of the petitioner’s monthly pension which undoubtedly gives rise to a recurring cause of action in his favour. Thirdly and factually, there is no delay on the part of the petitioner for the reason that the impugned speaking order was passed on 23rd December, 2008 and conveyed to the petitioner vide memo dated 15.01.2009 (Annexure P6). Immediate thereafter the petitioner filed the present writ petition in February, 2009.

(14). It is then urged that the ‘restoration’ of time-bound promotional pay scales being not a specific prayer made in this writ petition, this Court cannot grant such a relief to the petitioner. I find no force in this contention too for more than one reason. Firstly, the petitioner has specifically sought the quashing of the order dated 23.12.2008 (Annexure P5), whereby, his claim for restoration of the aforesaid pay scales has been turned down. Secondly, he has sought a writ of mandamus to direct the respondents “to release the whole of the amount of pensionary benefits in accordance with law.” Thirdly, he has also sought refund of the amount deducted from his Gratuity. All the reliefs taken together cannot be granted without directing the respondents to restore the promotional pay-scales as were granted to the petitioner on completion of 9/16 years of service. That apart, a writ court, while exercising its jurisdiction under Article 226 of the Constitution, is not bound by such technicalities and in order to bestow complete justice to the aggrieved, it can appropriately mould the relief.”

In view of the above, admittedly the case of the petitioner is squarely covered by the aforesaid judgment dated 12.08.2010 (Annexure P-7) passed in Rattan Chand’s case (supra) and CWP-25103-2014. Accordingly, the present petition is allowed and the order dated 16.08.2011 (Annexure P-6) is set aside. The respondents are directed to release the consequential benefits to the petitioner within a period of three months from the date of receipt of certified copy of this order along with interest calculated @ 6% per annum

from the date of accrual till the date of realization. The amount, if any, which have been recovered shall also be paid back to the petitioner with interest as stated hereinabove.

(DEEPAK MANCHANDA)
JUDGE

18.08.2023
vanita

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