

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

CWP No.22968 of 2016

Date of decision : 18.05.2023

Mahtab Singh

....Petitioner

Versus

Punjab State Power Corporation Ltd. and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Suvir Kumar, Advocate
for the petitioner.

Mr. R.L. Sharma, Advocate and
Mr. Suresh Kumar, Advocate
for the respondents.

PANKAJ JAIN, J.

Petitioner prays for issuance of a writ in the nature of mandamus directing the respondents to grant 23 years promotional increment w.e.f. 1st of January, 1977 with all consequential benefits to the petitioner w.e.f. 31st of July, 2008 after factoring in the 23 years promotional increment.

2. The petitioner joined services with erstwhile Punjab State Electricity Board as Assistant Lineman on 27th of March, 1974. He was promoted as Lineman on 22nd of December, 1980 and thereafter as Foreman on 23rd of July, 2007 before he retired from service on 31st of July, 2008 on attaining the age of superannuation .

3. In order to address stagnation in various cadres the

erstwhile Board vide Finance Circular No.17/90 dated 23rd of April, 1990 introduced a scheme to allow time bound benefits of promotional scales to its employees on completion of 9/16 years of regular service w.e.f. 1st of January, 1986. Features of the scheme read as under :-

“The scheme promotional to allow Time Bound benefit of Scale' will take effect from 1.1.1986. However, the payment of arrears would be spread over to two years i.e. arrears from 1.1.86 to 28.2.99 and 1999-90 would be paid in 1990-91 and 1991-92 respectively. Features of the Scheme :-

1. The benefit of first time bound placement into promotional/ devised promotional scale, as determined and notified on the basis of principles enunciated above, would become available to an employee on completion of 9 (Nine) years of regular service on a post and the second time bound promotional/devised promotional scale. would get normal promotion to the next higher post before completion of years service from the date of direct recruitment then he will not be given first time bound promotional/ devised promotional scale. He will be eligible to get second time promotional/devised promotion bound scale after the completion of 16 years of service counted from the date of direct recruitment provided he does not earn second normal promotion before the completion of the above said 16 years of service. Further an employee placed into the first promotional/ devised promotion scale on account of his length of service will not be placed into the second promotional/devised promotional scale before completion of atleast three years from the date of his placement the first promotional/devised promotional scale. For example an employee who has completed 17 years of service in an Induction post and was not promoted upto 1.1.1986, will be allowed 1st time bound promotional/ devised promotional scale on 1.1.86,

will be allowed and the 2nd time bound promotional/devised promotional scale will be admissible on 1.1.89 i.e. after completion of three years' service in the first time bound promotional/devised promotional scale.

2. For granting the time bound promotional/devised promotional scale to each employee in any cadre, the prescribed period will be counted from the date of commencement of service on the lowest post on which regular appointment has been made through direct recruitment in the concerned cadre.

3. At the time of placement in the time bound promotional/devised promotional scale, the employee will be allowed promotional increment (s), admissible on as promotion under are the provisions of Regulation 8 of PSEB (Revised Pay) Regulations, 1988 and as attended from time to time.

4. If an employees already in service of the the Board, is directly appointed to a higher post through open selection then for the purpose of grant of time bound promotional/devised promotional scale in that cadre counting of the period of service will commence from the date of joining the above post by direct recruitment.

5. That Board shall draw up schedule (s) indicating the, lowest post (s) for direct recruitment in respect of various cadres for the purpose of this order, separately.

6. In cases, an employee has already availed of the benefit of placement to the time bound promotional/devised promotional scale (s) and is promoted to the next higher post, his pay would be fixed at the next higher post, his pay would be fixed at the next stage in the same scale. In case he is promoted to a post which is lower than the scale in which he has already been placed on time bound promotional/devised promotional scale, he

will not be entitled to any increment and continue to draw the pay of the scale in which he has already been placed.

7. In case of employees who do not fulfill the qualification/passing of examination essential for their promotion to the next higher post, they shall also be placed into time promotional/devised promotional scale to be specified by the Board in the Scheduled as referred to in Para 5 (above).

8. No anomaly by way would be claimed by any senior employee vis-a-viz another employee merely on the strength of latter getting his placement into the Lime Bound promotional scale. promotional/devised

9. The authority/competent to grant bound promotional/devised time promotional scales after 9 years and 16 Years' service shall be the promoting authority of the employees concerned.

2. The Punjab State Elecy. Board has further decided to allow benefit of promotional increment (s) to an employee on completion 23 years of regular service provided :-

- i) He has not been benefited by the scheme of 9/16 years' time bound promotional scale.
- ii) He has not earned three regular promotions in his career.
- iii) He has not earned third promotion in his regular service between 16th and 23rd years of service.
- iv) The increments referred to in para-2 above are in the nature of advance promotional benefit to be absorbed in next regular promotion.”

4. Proviso (i) attached to Para-2 was deleted w.e.f. 1st of January, 1996 vide Finance Circular No.52/1999 and was further modified by Finance Circular No.20/2000 dated 28th of July, 2000

which reads as under :

“Office Order No.392/Fin/PRC-121

Dated :28.07.2000

The Punjab State Electricity Board is pleased to decide that the grant of benefit of promotional increment (s) to an employee on completion of 23 years of service as envisaged in its O/o No.384/Fin./PRC-121 dated 9.11.99 will be governed by the following conditions :-

- i) he/she has the avenue of three promotions but has not earned three regular promotions in his /her regular service from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.
- ii) he/she has not earned third promotion in his/her regular service between 16th and 23rd years of service.
- iii) he/she has not been placed in a scale which is higher than the scale of his/her next higher post.
- iv) the increment (s) are in the nature of advance promotional benefits to be absorbed in the next regular promotion.
- v) those who forego promotion shall not be entitled for this benefit.

2. This order will be effective from 1.1.96 without prejudice to the Assured Career Progression Scheme to be devised consequent upon revision of pay scales.

3. The other conditions as incorporated in office order No.197/Fin/PRC-1988 dated 23.4.90 and amended from time to time will remain unchanged.

4. That arrears accruing from re-fixation of pay on grant of advance promotional increment (s) will be credited to GPF accounts of the employees in full wherever GPF accounts exist and payable in cash w.e.f. 1.8.2000. For the retired employee the arrears will be paid in cash and as per existing policy.”

5. The same was again modified vide Finance Circular No. 53/2011 dated 18th of November, 2011 which reads as under :

“Finance Circular No.53/2011

Office Order No.529/PRC-330/2006 Dated :18.11.11

Sub: Grant of Promotional/ Devised Promotional Scales or Advanced Promotional Increment to the PSPCL employees from 15.10.09 onwards.

In continuation of F.C.No.17/90 (O/O No.197) dated 23.4.90 and amended from time to time and the instructions issued vide Regulation-11A of the erstwhile PSEB (Revised Pay) 2009 Circulated vide F.C. No.15/2009 & O/O No.478/PRC-302/2006 dated 15.10.09 in which it was decided that benefit of Promotional/Devised promotional scale and 23 years Advance Promotional increment (s) shall be allowed to be continued to the employee between 1.1.2006 to 14.10.09, wherever date.

The matter has now again been considered and it has been decided that the aforesaid benefits will be allowed to all the employees (other than officers) from 15.10.09 onwards in the erstwhile PSEB (Revised Pay) Regulations 2009 subject to the conditions mentioned hereinafter.

1. No. of Financial Upgradation admissible :-

i) A PSPCL employee shall be PSEB (Revised Pay) Regulations 2009 subject to the conditions mentioned hereinafter.

1. No. of Financial Upgradation admissible:-

i) A PSPCL employee shall be entitled to at least two financial up-gradations in his entire service career counted from the date of joining any other post on the induction post or specifically declared as induction post.

ii) A PSPCL employee shall be entitled to time bound higher scales on completion of regular service of 9/16 years subject to the Regulations indicated hereinafter.

2. Conditions for 9/16 Years Promotional/ Devise Promotional Scales: -

i) An employee who has not got any promotion shall be eligible for grant of first promotional/devise promotional scale on completion of regular service of 9 years. For granting time bound promotional/devise promotional scale to each employee in any cadre, the prescribed period will be counted from the date of commencement of service on the lowest post on which regular appointment has been made through direct recruitment in the concerned cadre.

ii) If an employee already in the service of the Board, is directly appointed to a higher post through open selection then for the purpose of grant of time bound promotional/devise promotional scale in the cadre counting of the period of service will commence from the date of joining such higher post by direct recruitment.

iii) In case of employees who do not fulfill the qualification/ passing of examination essential for their promotion to the next higher post, they shall also be placed into time bound promotional/devise promotional scale as already framed vide FC No.25/2003 dated 13.11.2003 and amended from time to time.

iv) An employee who has not got any promotion but has availed of first promotional/devise promotional scale shall be eligible for grant of 2nd promotional/devise promotional scale on completion of regular service of 16 years.

v) An employee who has already availed of one promotion

and first promotional/devised promotional scale on completion of 9 years' service shall be eligible for grant of 2nd promotional / devised Promotional scale completion of regular service of 16 years.

vi) An employee, one in his/her entire service, can avail the benefit of only one induction post for getting 9/16 years time bound promotional/devised promotional scales and 23 years advance promotional increment.

3. CONDITIONS FOR ADVANCE PROMOTIONAL INCREMENT ON COMPLETION OF 23 YEARS SERVICE

i) He/she has the avenue of three promotions but has not earned three regular promotions in his/her regular service from the date of joining On the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.

ii) He/she has not earned third promotion in his/her regular service between 16th and 23rd years of service and is eligible for 3rd promotion irrespective of the pay limit.

iii) He/she has not been placed in a scale which is higher than the scale of his/her next higher post.

iv) The increment (s) are in the nature of advance promotional benefits to be absorbed in the next

v) Those who forego promotion shall not be entitled for this benefit.

4. The following periods shall not count for reckoning the prescribed span of service for the grant of promotional/devised promotional scales or advance promotional increment (s):-

a) The period of extra ordinary leave that does not count for annual increment.

b) The period of suspension not treated as duty.

- c) The period spent on military service before joining the civil service.
- d) The period of service on ad hoc or contract basis; and
- e) The period of debarment as in the case of promotion.

5. Procedure for grant of Promotional/Devised Promotional Scale or Advanced Promotional Increment (s).

1) The procedure and the regulations/ instructions for grant of promotional/ devised promotional scale after 9/16 years and advanced promotional increment (s) shall be the same as already in vogue for granting

ii) The authority competent to grant time bound promotional/ devised promotional scales after 9 years and 16 years service shall be one step below than the promoting authority of the employee concerned.

6. FIXATION OF PAY ON GRANT OF PROMOTIONAL/DEVISED PROMOTIONAL SCALES AND ADVANCE PROMOTIONAL INCREMENT (S) :

INCREMENT (S) :

i) On grant of promotional/devised promotional scale or advance promotional increment (s), as PSPCI employee shall be placed in the grade pay indicated in the Schedule to the erstwhile PSEB (Revised Pay) Regulations 2009 (circulated vide F.C.No.15/2009 O/o No.478/PRC-307 dated 15.10.09) that corresponds to the promotional/devised promotional scale indicated in Annexure A to the F.C. No.25/2003 circulated vide Memo No. 113943/114572/PRC-132 dated 13.11.2003 and amended from time to time.

ii) The pay of a PSPCL employee on placement in the higher

grade pay shall be fixed after giving him the benefit of one increment on the basic pay prior to the grant of promotional/devised promotional scale or

advance promotional increment and the higher grade pay shall be added to the pay band so arrived at.

iii) If the grant of higher pay involves change in the pay band also and the minimum of pay band is higher than the pay in the pay band, his pay in the pay band shall be fixed at such minimum.

iv) At the time of regular promotion, a PSPCL employee drawing pay in the higher pay scale/grade pay & same pay scale/grade pay on account of promotional/devised promotional scales (either in same or higher grade pay) will be given a benefit of one promotional increment. There will be no increment on regular promotion in the lower scale/grade pay. However, his/her higher pay scale/grade pay granted under 9/16 years time bound scales, if any, shall be protected as a measure personal to him/her.

v) Those who forego promotion shall not be entitled for this benefit.

7. RATE OF INCREMENT

The rate of increment shall be the same as laid down in rule 9 of erstwhile PSEB (Revised Pay) Regulations 2009.

8. DATE OF NEXT INCREMENT:

The next increment of a PSPCL employee, whose pay is fixed in accordance Para- (6) above, shall be allowed on the date, he would have drawn it, had he continued in the lower grade pay.

Provided that in the case of PSPCL employee, whose pay is

fixed under sub-para (iii) of para (6) above, next increment shall be allowed after qualifying service of 12 months in the higher grade.

9. OVERRIDING EFFECT

The provisions of the erstwhile PSEB (Revised Scales of Pay) Regulations, 1979, the erstwhile PSEB (Revised Scales of Pay) Regulations, 1988, the erstwhile PSEB (Revised Scales of Pay) Regulations, 1999 and the erstwhile PSEB (Revised Scales of Pay) Regulations, 2009 shall not, save as otherwise provided in these rules, apply to the cases, where pay is regulated under these Regulations, to the extent they are inconsistent with these Regulations.

10. EXCLUSION OF CLAIM OF PARITY OF PAY ON THE GROUND OF SENIORITY

The promotional/devised promotional scales or advance promotional increment granted under these regulations shall be purely personal to the employee and shall have no relevance to his seniority position. As such, the senior employees shall have no claim of parity of pay on the ground that the junior employee working on the same posts has got higher pay or grade pay under these regulations.

11. POWER TO RELAX

Where PSPCL is satisfied that the operation of these regulations causes undue hardship to any individual PSPCL employee or class of PSPCL employees, it may, by an order in writing, relax or dispense with any of the provisions of these Regulations to such extent and subject to such conditions, as it may consider necessary.

12. INTERPRETATION

If any question arises relating to the interpretation of any of the provisions of these Regulations, the office of Chief Engineer/HRD in consultation with the Finance Section of PSPCL shall be the final authority.”

6. The aforesaid issue came before this Court in **RSA No.4046 of 2005** titled as '**Chaman Lal vs. PSEB**' which was decided in favour of the employee.

7. Petitioner herein represented to the respondents claiming benefit of 23 years of ACP scale but could not find favour.

8. Respondents in the present writ petition filed written statement admitting the factual position. However it is claimed that the petitioner is not entitled for benefit of 23 year promotional increment being placed in revised promotional scale in second promotional increment as Foreman. It has been claimed that since there was no other promotional avenue after Foreman he was not eligible for the claim.

9. I have heard counsel for the parties and have gone through records of the case.

10. The arguments raised by Mr. Sharma on the basis of the reasons recorded in the written statement by the Corporation for denying 23 years promotional scale to the petitioner is misconceived.

Admittedly, the petitioner was promoted as Lineman on 22nd of

December, 1980 before he was promoted as Foreman on 23rd of July, 2007. The petitioner served in the cadre of Lineman for 27 long years before earning promotion as Foreman. Thus, the petitioner in the said cadre suffered stagnation for 27 long years despite there being a promotional avenue. The conditions contemplated under relevant Circular dated 28th of July, 2000 for grant of 23 year promotional scale are as under :

- i) he/she has the avenue of three promotions but has not earned three regular promotions in his /her regular service from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.
- ii) he/she has not earned third promotion in his/her regular service between 16th and 23rd years of service.
- iii) he/she has not been placed in a scale which is higher than the scale of his/her next higher post.
- iv) the increment (s) are in the nature of advance promotional benefits to be absorbed in the next regular promotion.
- v) those who forego promotion shall not be entitled for this benefit.

11. Admittedly petitioner has not foregone promotion. He would be entitled for grant of 23 years promotional pay scale in the light of the Circulars of the Corporation/erstwhile Board promulgating the scheme.

12. Consequently, the present writ petition is allowed. Respondents are directed to award 23 years promotional scale to the

petitioner by treating Lineman as his induction post, within a period of eight weeks from the date of receipt of certified copy of this order.

13. It is further ordered that revised terminal benefits/ pension be awarded to the petitioner granting him the benefit of 23 years pay scale. The arrears be calculated and the differential amount be paid to the petitioner within the time period stipulated hereinabove.

May 18, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No