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

CWP-24199-2016

Date of decision : 25.04.2023

Mohan Singh

..... Petitioner

versus

Punjab State Power Corporation Ltd. and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Birinder Pal, Advocate and
Mr. D.S. Bhinder, Advocate
for the petitioner.

Mr. Karaj Veer Singh, Advocate for
Mr. Piyush Khanna, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

The petitioner has invoked jurisdiction of this Court seeking writ in the nature of mandamus directing the respondents to allow benefit of ACP on completion of 23 years of regular service in the light of various circulars issued.

2. The claim of the petitioner is being resisted by the Corporation on the ground that vide Finance Circular No.10/2008, an option was invited from the employees by the Corporation to opt for change in induction level for the purpose of time bound promotional scales. The petitioner having failed to exercise such option is not entitled for 23 years advance promotional increment.

3. The precise issue w.r.t. non exercise of such option already stands addressed by Coordinate Bench in the bunch of writ petitions

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and others', CWP No.27130 of 2019 being the lead case, wherein the Court held as under:-

“After arguing for some time, learned counsel for the petitioners submitted that the petitioners do not press their challenge to the instructions dated 01.10.2018 at this stage and will confine their argument to contend that the petitioners are entitled for the grant of 23 years promotional increment as the orders passed by the respondents-Corporation declining the said benefit is contrary to the facts, instructions prevalent at the relevant time as well as pronouncement of the competent Courts of law on the said aspect.

The challenge to the instructions dated 01.10.2018 though raised but has not been pressed by the petitioners at this stage and therefore, no finding on the said aspect is being rendered by this Court.

Learned counsel appearing on behalf of the respondents-Corporation, who is being assisted by Mr. Naresh Kumar Sharma, Deputy Secretary, Finance, PSPCL, Patiala, submits that being a welfare corporation, the Corporation does not want to deny a legitimate claim of any of its employee in case covered under the rules/instructions. Learned counsel for the respondents submit that though, the claim of the petitioners have been declined by the authorities concerned, which order has been challenged by them in the present proceedings but, the corporation is not averse of reconsideration in case, any of the petitioners represents against the impugned order pointing towards any factual discrepancy in the order declining them the benefits. Learned counsel for the respondents-

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Corporation further submits that he has instructions to submit that the Corporation will consider the claim of each employee, who has approached this Court afresh keeping in view the instructions which were prevalent on the date of his/her eligibility for the grant of 23 years promotional increment.

Learned counsel for the respondents further submits that the only request of the Corporation is that the employee concerned should file appropriate claim bringing out the discrepancy, which according to them, is part of the impugned order, which needs consideration at the hands of the Corporation. Learned counsel for the respondents further submits that the grounds given for declining of the claim of the petitioner already, which have been impugned in the present petitions, will not be taken as a ground ipso facto to decline the claim again without rendering appropriate consideration to the claim which will be raised by the petitioners and objection to the impugned orders, will be considered with open mind subject to the eligibility as envisaged under the instructions which were prevalent at the time when the said petitioners became eligible for the grant of promotional increment on completion of 23 years of service and appropriate speaking order will be passed in each case.

Learned counsel for the respondents- Corporation further submit that in case after reconsideration, claim of any employee is found to be genuine, he/she will be granted the benefit and the impugned order passed will be suitably modified.

Learned counsel for the respondents further

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clarifies/submits that it may be a case that an employee might be ineligible on a particular date when he completes 23 years of service but in case he remains in service and thereafter, becomes eligible due to subsequent notification issued by the respondents-Corporation, the Corporation will consider his/her case on the said date of eligibility also.

This Court has been assured by the respondents that the orders already passed declining the claim of the petitioners will not be taken into account in case, an employee makes out a case for reconsideration of the same in the representation which is to be submitted after the passing of the order in the present case.

Proposal of reconsideration of the cases by the Corporation is accepted by the learned counsel appearing on behalf of the petitioner(s).

Keeping in view the above assurance given by the Corporation, the impugned orders are not being set aside as Corporation has undertaken to reconsider the issue on case to case basis in case, the petitioners raise any grievance qua the same before the authorities concerned.

The petitioners are granted time upto 31.08.2022 to raise objections before the respondents-Corporation in respect of any orders, which have been passed by the respondents-Corporation declining them the grant of promotional increment after rendering 23 years of service.

The time limit for filing the objections has been set as the petitioners are in litigation since long and most of them have retired from service.

The present writ petitions are hereby

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disposed of with the direction to the respondents-Corporation that in case, any of the petitioners, raise any grievance, within the time limit specified hereinbefore, with regard to the declining of their claim by the authorities concerned by pointing out certain factual aspect or bringing to the notice of the authorities that they are eligible for the grant of the benefit of promotional increment after 23 years of service, the Corporation, as undertaken, will pass appropriate orders on their representation within a period of three months from the receipt of the same and in case, after passing of the order, the petitioners are found entitled for any benefit, the same be also released to them within a period of four weeks thereafter.”

4. Counsel for the petitioner also places reliance upon judgment of the same bunch rendered in ‘**Jinder Singh and other vs. State of Punjab and others**’ which is not qua the Corporation but regarding State of Punjab. Thus, it is the judgment rendered in **Shavinder Singh’s case (supra)** which will hold the field.

5. Resultantly, the present writ petition is allowed in terms of ‘**Shavinder Singh vs. Punjab State Power Corporation Limited and others**’, **CWP No.27130 of 2019**. Petitioner is allowed to raise his grievance before the respondent-Corporation upto 30.06.2023. In case petitioner raise his grievance with regard to declining of the claim by the authorities concerned, the Corporation shall reconsider his claim in the light of law laid down by this Court in the case of **Punjab State Power Corporation Limited Patiala and others vs. Nirmala Rani, LPA No.997 of 2016** and shall also adjudge the same after taking into

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1st of October, 2018 within a period of 3 months from the receipt of the representation received by the petitioner.

6. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

25.04.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No