

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

Date of decision : 27.03.2023

CWP No.2346 of 2017

Darshan Lal and others

....Petitioners

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CWP No.10191 of 2017

Pawan Kumar

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CWP No.20086 of 2017

Bhushan Kumar and another

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CWP No.22736 of 2017

Sukhdev Kaur and another

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Brijesh Nandan, Advocate and
Ms. Rupinder K. Kanwal, Advocate
for the petitioner(s).

Ms. Anu Chatrath, Sr. Advocate with Mr. Aakash, Advocate
for respondents No.1 to 3 in CWP-10191-2017

Mr. R.L. Sharma, Advocate
for the respondent-PSPCL in CWP-2346-2017.

Mr. Sehaj bir Singh, Advocate with
Mr. Sunpreet Singh, Advocate
for the respondents-PSPCL.

PANKAJ JAIN, J. (ORAL)

This bunch of writ petitions relate to grant of 23 years time bound pay-scale being claimed by the petitioners.

2. In these matters either the authorities have not passed any impugned order or the impugned order relates back to time prior to 1st of October, 2018. Respondent-Corporation extended ACP scale on completion of 23 years of service to its employees vide Finance Circular No.17/1990 dated 23rd of April, 1990. The circular contained conditions to test the eligibility of employee for grant of 23 years scale. However vide Circular dated 17th of October, 2010 another condition was added thereto. As per the same the employees were required to pass departmental examination as condition precedent for grant of promotional increment on completion of 23 years of service. The same was made applicable with retrospective effect that too from 1st of January, 1986. The said retrospective effect thereof came up for judicial review and was finally adjudicated by Division Bench in **LPA No.997 of 2016** titled as **Punjab State Power Corporation Limited Patiala and others vs. Nirmala Rani and other connected cases**, decided 22nd of September, 2016 wherein it was held as under :-

“26. In conclusion, therefore, we have no hesitation in holding that the withdrawal of the benefit for promotional increment as contained in Feature Nos. 7 and 8 of the original circular dated 23.04.1990 by the appellant authorities has no validity in the eyes of law qua those employees who had already become eligible for promotion as on 17.10.2010 and who otherwise were eligible for the same by virtue of the eligibility criteria in force till that date. Of course such deletion of Feature Nos. 7 and 8 would be valid prospectively as against the other class of employees, who did not meet up the prescribed criteria as noted in Para No.7 earlier, or had not yet put in the requisite length of service (23 years).”

3. Respondent-Corporation issued another set of instructions dated 1st of October, 2018 whereby the eligibility conditions for entitlement to 23 years ACP scale have again undergone a change. Certain eligibility conditions stand deleted. The riddle of addition of conditions and thereafter deletion thereof by subsequent circulars and the resultant consequence came up for consideration before the Co-ordinate Bench in **CWP No.27130 of 2019** titled as **Shavinder Singh vs. Punjab State Punjab Corporation Limited and others** wherein it has been ordered 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-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 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 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 parties are *ad idem* that the present writ petitions can also be disposed off in terms thereof. Resultantly, the present writ petitions are disposed off in the light of directions issued in the case of **Shavinder Singh vs. Punjab State Power Corporation Limited and others** (supra).

5. The petitioners are allowed to raise their grievance before the respondent-Corporation up to **30th of May, 2023**. In case any of the petitioner raises 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 **Nirmala Rani** (supra) and shall also adjudge the same after taking into consideration deletion of conditions as effectuated by instructions dated 1st of October, 2018 within a period of 3 months from the receipt of the representation received by the petitioner(s).

6 In case, the petitioners are found to be entitled for their respective benefits, the same shall be released within a period of 8 weeks thereafter.

7. However, in case the authorities find that the claim of the

petitioners does not merit acceptance, the same shall be adjudicated by passing a speaking order.

8. A copy of this order be kept on the files of other connected cases.

March 27, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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