

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22010-2018

Date of decision : 08.02.2023

Nirmal Singh

..... Petitioner

versus

PSPCL and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: None for the petitioner.

Mr. Abhilaksh Grover, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

The issue relates to claim of the petitioner on the promotional increment on completion of 23 years of service.

2. The foundation of the claim of the petitioner is Finance Circular No.17/1990 dated 23.04.1990. As per the said Circular on compliance of certain conditions as contained in para 2 thereof an employee was entitled to be placed in promotional scale after completion of 9, 16 & 23 years of service. In the year 2010 respondents-Corporation supplemented the conditions as enumerated in the aforesaid circular dated 23.04.1990 by adding another condition of passing departmental examination for grant of promotional increment on completion of 23 years of service with retrospective effect. The condition came under judicial review and the same was decided by Division Bench of this Court in ***LPA No.997 of 2016 titled as Punjab State Power Corporation Limited Patiala and others Vs. Nirmala Rani and other connected cases, decided on 22.09.2016.*** The operative part thereof reads 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. The condition imposed was thus held to be prospective in its operation. Counsels appearing for the parties are *ad-idem* that the similarly situated employees approached this Court in another Bunch of petitions which were decided by Coordinate Bench vide order dated 31.05.2022 passed in CWP No.27130 of 2019 titled as ***Shavinder Singh Vs. Punjab State Power Corporation Limited & others.*** The same have been disposed off as under :-

“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. In the light of the directions given by the Coordinate Bench in ***Shavinder Singh’s case (supra)***, the present petition is disposed off in the same terms.

5. The petitioner is granted time till 31.03.2023 to raise objections before the respondents-Corporation in respect of the orders declining grant of promotional increment available to the petitioner on rendering 23 years of service. In case the petitioner raises his grievance within the time limit specified hereinabove against the rejection of his claim for promotional increment on completion of 23 years, respondents-Corporation shall consider the same and decide it on or before 30.06.2023. In case the petitioner is found to be entitled for the benefit, the same shall be released to them upto 31.07.2023. In case the respondents-Corporation feels that the claim of the petitioner merits rejection, the same shall be adjudicated by passing a speaking order upto 30.06.2023.

6. Petition stands disposed off in the aforesaid terms.

(PANKAJ JAIN)
JUDGE

08.02.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No