

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-749-2022 (O&M)

Date of Decision: 21.02.2023

Krishan Lal

.....Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited, Panchkula, and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rajender Singh Malik, Advocate,
for the appellant.

ARUN PALLI, J.

This is an intra court appeal, under Clause X of the Letters Patent, against an order and judgment dated 18.07.2022, vide which the writ petition preferred by the appellant was dismissed.

The appellant, before the Writ Court, had prayed for the following substantive relief:-

“Writ Petition under Articles 226/227 of the Constitution of India praying for issuance of writ of Mandamus or any other appropriate writ order or directions to the respondents to withdraw the orders issued by memo No Ch-75/EP-7194 dated 24.09.2020 (Annexure P-9/A) vide which Respondent No 5 intimated that as per seniority certificate Sh. Brahmchari is senior to the petitioner, though on the bases of Pay detail sent by XEN Steel Workshop, UHBVN, Panipat (Annexure P-1.) and to issue seniority certificate against Sh. Brahamchari, Lineman to the petitioner for Work Charge T/Mat, Regular T/mate, HG-II,

HG-I and Lineman.

AND/OR

To make necessary orders for correction in seniority list prepared for regularization of work charge employees in the year 1988, the tentative seniority list of Helper Gr. II ending 31.03.93 circulated vide memo No Ch 5507.12 dated 26.4.19 of Chief Engineer/Workshop whereby name of the petitioner is placed at Serial No. 240 showing his date of joining as Work Charge as 01.07.1982 whereas his date of joining in service was 08/1980 as verified by his initial office (i.e. XEN Steel Structure Workshop Panipat) where the fact of joining originally found on 01.08.1980, means prior to his junior named Sh. Brahmchari. The subsequent Seniority lists also needs to be modified showing petitioner to be senior to respondent No 8 accordingly.

AND/OR

to re-fix the pay of the petitioner at par with his junior named Brahmchari (Retd. Lineman) at the post of T/Man (Work-charge) who was appointed in Oct 1988 (i.e. Rs. 870/- inspite of Rs. 786/-), same pay at par at the post of regular T/Mate by regularization of his service with effect from 12.10.1988 when his junior Brahmchari was made regular and to other posts by modifying the seniority lists accordingly.

AND/OR

To revise pay and pension of the petitioner by promoting him earlier to promotion of his junior employee named Brahamchari LM (Retd) and to remove the pay anomaly.

AND/OR

To pay the arrears of pay, pensionary benefits and pension alongwith 18% interest to the petitioner by fixing his pay at par with Brahamchari, LM (Retd.) for the post of HG-II, HG-1 and Lineman till 31.01.2018 (the date of retirement of Brahamchari LM Retd.) and whereas the petitioner retired on a higher post as Forman.”

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: the appellant was appointed as T-Mate on work-charge/daily wages in the first week of August, 1980, in the office of Executive Engineer Steel Structure Workshop, HVPNL, Panipat. Whereas, respondent No.8 joined service as Store Attendant on work charge/daily wages on 19th September, 1980. Services of both, the appellant as also respondent No.8, were regularized as T-Mate on 12.10.1998 and 06.10.1988, respectively. He submits that in the tentative seniority list of Helper Grade II, the date of entry into service of the appellant was wrongly mentioned as 01.07.1982, though he had joined in the first week of August, 1980. Resultantly, he was positioned at serial number 240, whereas, name of respondent No.8 was reflected at serial number 102 in the said seniority list. It is urged that the appellant had retired from service on 31.05.2019 as Assistant Foreman (AFM), one post above respondent No.8, who retired as Lineman on 31.01.2018. Thus, at the time of his superannuation from service, he was drawing Rs.42,300/- per month. Therefore, the seniority list is required to be modified showing appellant to be senior to respondent No.8, to fix his pay at par with his junior and to revise his pay and pension by promoting him from an earlier date, when his junior (respondent No.8) was promoted.

We have heard learned counsel for the appellant and perused the records.

Concededly, services of respondent No.8 were regularized as T-Mate on 06.10.1988 in the pay scale of Rs.750-940, and he joined as such on 12.10.1988. Whereas, services of the appellant were regularized later on 12.10.1988, in the same pay scale and he joined on 14.10.1988. It is not in dispute either that appellant, during his service, never questioned this position or

claimed regularization from an earlier or the same date. Further, in the tentative seniority list of the Helper Grade II, ending on 31.03.1993, the appellant was concededly shown junior to respondent No.8. It would be apposite to point out that, in terms of memo dated 26.04.1993 (P-4), vide which the said tentative seniority list was circulated, any person aggrieved against the seniority position assigned to him/her could submit a representation within a month from the issuance of the said memo. It was also observed that in case no such representation would be received, it would be deemed that the employees had no grouse. It is not the case of the appellant either, that he had ever expressed any such grievance qua the position assigned to him in the seniority list of Helper Grade II. Likewise, even the seniority list of Helper Grade I, w.e.f. 01.01.2003, showed the appellant at serial number 57, whereas, respondent No.8 was placed at serial number 55, wherein, again the date of joining of the appellant on work charge/daily wages was recorded as 01.07.1982. Significantly, even vide memo dated 14.11.2007 (P-5), whereby the said list was circulated, an opportunity was afforded to all concerned, in case they were aggrieved by, to represent to the authorities within a month, failing which, it would be presumed that they had accepted the position assigned to them and had no grouse in this regard. Again, there is nothing on record to indicate that the appellant ever made any grievance in this regard. Accordingly, vide memo dated 06.08.2021 (P-8), respondent No.4 had clarified that respondent No.8 was senior to the appellant, as per the seniority list circulated vide memo dated 14.11.2007. Resultantly, claim of the appellant was rejected by the authorities, vide order dated 24.09.2021. As indicated above, the appellant had retired from service on 31.05.2019. While he was in service, neither did he question the date from which he was regularized as T-Mate, nor he challenged the tentative seniority lists of Helper Grade-II and

Helper Grade-I (w.e.f. 01.01.2003).

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal, being bereft of merit, is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

21.02.2023
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes