

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-4134-LPA-2023 in/and
LPA-1266-2023 (O&M)
Date of decision: 01.12.2023

Punjab State Power Corporation Ltd., Patiala
and another

....Appellants

V/s.

Amarjit Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Alok Mittal, Advocate
for the appellants.

Mr. B.S.Patwalia, Advocate
for the respondents.

Ritu Bahri, Acting Chief Justice

CM-3237-LPA-2023

For the reasons mentioned in the application, the same is
allowed and the delay of 58 days in filing the appeal is condoned.

CM-4134-LPA-2023

Application is allowed and the written statement dated
31.01.2023 filed by the appellants as well as the replication dated
14.03.2023 filed by the respondents in CWP-14729-2022 is taken on record
as Annexure A-2 and Annexure A-3.

LPA-1266-2023 (O&M)

The Punjab Power State Corporation Limited, Patiala
(hereinafter referred to as 'the Corporation') has come up in appeal against
the judgment dated 18.05.2023 passed by the learned Single Judge whereby
writ petition filed by the petitioners-respondents (hereinafter referred to as

'respondents') claiming parity of pay scale with the Junior Engineers who were juniors to them in merit and were getting higher pay scale has been allowed.

2. As per the facts, the respondents were appointed as Sub Station Attendants pursuant to public notice dated 20.12.2017 alongwith other selected candidates. During the probation period of the respondents on the post of Sub Station Attendants, the Corporation issued public notice dated 05.09.2019 inviting applications for the post of Junior Engineer (Electrical). Many Sub Station Attendants including the respondents resigned and obtained No Objection Certificate and participated in the selection process for the post of Junior Engineer (Electrical). The respondents higher in merit were appointed. However, owing to Code of Conduct coming into force on the eve of declaration of elections in the State of Punjab in January, 2002, rest of the candidates could not be appointed and their appointments got delayed. As a consequence, those SSAs who were juniors in the merit list, were able to complete their probation period on the post of SSAs, whereas the respondents got appointed as Junior Engineers prior to completion of the probation period as SSAs. On the other hand, the junior SSAs who were promoted as Junior Engineers completed their probation period on account of coming into force of Code of Conduct and after completing the probation period as SSAs, their salaries were fixed higher as per clause 2(4) of the appointment letter and when they joined on the post of Junior Engineer, their pay of SSAs were protected. They were getting higher pay scale than the respondents on account of fixation of their pay after completing three years of probation period as SSAs. The respondents claimed parity and upgradation of pay at par with the SSAs who were juniors and promoted as Junior Engineers.

3. The ground taken by the Corporation was that the respondents were still on probation and they had not completed three years and they had to be paid salary in terms of notification dated 15.01.2015 issued by State of Punjab adopted by Corporation and dated 05.10.2016. However, the said notification which was being followed by State of Punjab was quashed by Division Bench of this Court in *CWP-17064-2017* titled as *Ajay Kumar Singla & others vs. State of Punjab and others*, decided on 16.02.2023.

4. The only stand taken by the Corporation before the learned Single Judge was that as per clause 2(4) of the appointment letter, the probationers were to be paid lump sum salary.

5. Learned counsel for the appellants-Corporation referred to written statement dated 30.01.2023 (Annexure A-2) to clarify that persons junior to the respondents were paid salary of SSA and not of Junior Engineer and since the respondents had not completed probation period on the post of SSAs before joining as Junior Engineer, their pay could not be protected. Since the persons junior to the respondents had completed three years probation period, their pay was rightly protected when they had joined as Junior Engineers in the Corporation.

6. The further stand taken in the written statement is that the respondents had resigned from their post of SSA and had joined afresh on the post of Junior Engineer and the SSAs who were juniors to the respondents had completed their probation period before joining on the post of Junior Engineers and, hence, no parity can be claimed by the respondents. In the written statement, further stand taken is that as per the appointment letter of the post of Junior Engineer, during the probation period of three years, emoluments will be given fixed as per CRA 291 of 2017 which will be equal to minimum pay band to the equal post.

However, the main stand of the Corporation in the written statement is that the respondents joined on the post of Junior Engineer without completing three years probation period as SSAs and the other candidates lower in merit joined on the post of Junior Engineer after completing three years probation period as SSAs.

7. After hearing learned counsel for the parties, the facts which are not in dispute between the parties are that the respondents were more meritorious and were senior to those SSAs who had completed three years probation period. The writ petition of the respondents has been rightly allowed on the ground that the respondents were higher in merit to the other candidates who were getting higher salary and joined services prior to them as SSAs. Merely for the reason that the joining of the rest of the selected candidates got delayed on account of there being Code of Conduct, the respondents could not be denied parity of pay scale at par with their juniors who were working as SSAs and completed three years of probation period. It has further been clarified that the judgment passed in *Ajay Kumar Singla's case (supra)* was dealing only with the notification dated 15.01.2015 and in the present case, the issue is with respect to giving parity of pay scale to the seniors at par with their juniors.

8. Keeping in view the above observations, no ground to interfere in the judgment dated 18.05.2023 passed by the learned Single Judge is made out.

9. Letters Patent Appeal is dismissed accordingly.

10. Pending application also stands disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

01.12.2023
Divyanshi

(AMAN CHAUDHARY)
JUDGE

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