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

CWP-6831-2018

Date of decision : 16.05.2023

Satish Kumar Vashisht

..... Petitioner

versus

Punjab State Power Corporation Ltd. and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. Rishabh Gupta, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

Petitioner is aggrieved of the order dated 15.02.2018 passed by respondent No.4 (Annexure P-8), whereby the claim of the petitioner for time bound promotional scale on completion of 09 years of service as Assistant Engineer/ Assistant Executive Engineer in lieu of promotion to the post of Senior Executive Engineer stands rejected.

2. Petitioner was promoted as Assistant Executive Engineer vide order dated 29.06.2012 w.e.f. 17.03.2003. He retired on attaining the age of superannuation on 31.03.2012. The petitioner represented to the respondent-Corporation for grant of ACP scale having served for more than 09 years in the said cadre and approached this Court by way of CWP No.26182 of 2017, wherein the respondents were directed to look into the grievance of the petitioner as raised in the legal notice dated 03.10.2017. Pursuant to the said directions, impugned order dated

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16.02.2018 has been passed rejecting the claim of the petitioner in the following terms:-

“xx xx xx

4. After scrutiny of service record as well as the relevant administrative instructions issued in the matter of allowing the benefit of Time Bound Promotional Scale of Sr.Xen after completion of 9 years of regular service as AE, it has been observed that the above said benefit does not make him entitled in the light of Finance Circular 54/ 2011 circulated vide o/o No. 530/PRC-330/2006 dated 18.11.2011 as he did not qualify DAE and Departmental professional and Safety Code Examination prescribed for Engineer officer as required in para 3 (ii) of the above said Circular. The fact is that the petitioner was allowed exemption from passing DAE beyond the age of 54 years i.e. w.e.f. 02.03.2008 vide o/o No. 133/BEG dated 29.08.2011 is only for providing regular scale on promotion from AE to AEE and this exemption is not applicable for claiming the benefit of Time Bound Promotional Scale.
5. In view of the facts stated above it is clear that the petitioner Er. Satish Kumar Vashisht Retd. as AEE was allowed exemption from passing of Departmental Accounts Examination for Engineers, exemption is allowed only for providing regular scale on promotion from AE to AEE but for providing of Time Bound Promotional Scale on completion of 9 years regular service as AE/AEE it is mandatory to pass the Departmental Accounts Examination for Engineers as per para 3 (ii) of FC 54/2011 dt. 18.11.11.

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6. The competent authority has examined all the issues i.e. grant of deemed promotion as AE/AEE alongwith all consequential benefits as well as interest against retiral benefits and found that the grievances unfolded by the petitioner in his Legal Notice dated 03.10.2017 cannot be redressed in view of administrative instructions issued in this regard and nothing is now payable except the deemed dated promotion as AE and AEE which have already been allowed vide o/o No. 95/BEG dated 26.06.2012 (w.e.f. 17.03.2003) and o/o No. 136/BEG dated 31.08.2012 (w.e.f. 02.01.2007) respectively.”

3. Mr. Dadwal, counsel for the petitioner submits that the petitioner has been non-suited primarily on two grounds vis-a-vis:-

(i) He did not qualify DEA and Departmental Professional and Safety Code Examination prescribed for Engineering Officer which is patently wrong. He refers to Annexure P-9 to submit that the petitioner did appear for safety code test on 28.07.1986 and was declared successful.

(ii) So far as departmental examination is concerned, Mr. Dadwal refers to P-10 to submit that PSEB Service of Engineers (Electrical) Regulations, 1965 stand amended and the Assistant Engineers/Assistant Executive Engineers who have crossed the age of 54 years are exempted from passing the departmental accounts examination of Engineering Officers and no disability whatsoever shall attach to them in order to consider them for further promotion.

4. Per contra, Mr. Gupta submits that even if the aforesaid exemption is granted to the petitioner, the same shall not entitle him for

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grant of ACP as the same would only make him eligible for providing regular scale on promotion from A.E. to A.E.E.

5. I have heard counsel for the parties and have gone through the records of the case.

6. Admittedly, the petitioner has not qualified DAE Examination. In case the exemption has to be read in his favour in terms of P-10, the same shall at the most relate to the date when he attained the age of 54 years. The time bound pay scales or ACP pay scales are granted to the employees in lieu of lack of promotional avenues and thus generally the qualification prescribed for earning ACP scale is that prescribed for earning promotion. Admittedly, the petitioner retained requisite qualification for promotion only in the year 2008 and thus his services have to be counted from that date for grant of time bound pay scale. The petitioner having not served for the minimum required period in the said cadre, thereafter no time bound promotional scale could have been granted.

9. Resultnatly, it is not a case which warrants interference and the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

16.05.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No