

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

CWP-23607-2014

Date of decision : 16.08.2023

Karnail Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Kulbhushan Raheja, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

Mr. Harsh Garg, Advocate
for respondent Nos.2 to 4.

DEEPAK MANCHANDA, J.(Oral)

1. Petitioner -Karnail Singh has filed this writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to promote him from the date when his junior-Prem Singh was promoted and further for issuance of a writ in the nature of certiorari for quashing the orders dated 01.02.2007, 27.12.2007 and 09.07.2014 (Annexures P-5 to P-7) of dismissal of review petition and for releasing all the consequential benefits.

2. The facts in brief leading to the present petition are that petitioner-Karnail Singh was appointed as Lineman on 09.08.1984 and later on, he was promoted as Junior Engineer on 04.03.1993. Vide order dated 29.08.2008

(Annexure P-1), petitioner's junior, namely, Prem Singh was promoted as Additional Sub Divisional Officer, whereas petitioner was promoted as Additional Sub Divisional Officer on 11.11.2013 (Annexure P-2) i.e. after five years of his junior's promotion, who was placed at Sr.No.6618 and petitioner was placed at Sr. No.6617. It is the case of the petitioner that on 15.07.2006, there was a breakdown of supply, therefore, petitioner left the office after performing his duty and Kashmir Singh (Junior Engineer) was on duty as shown in attendance register i.e. Annexure P-3. Thereafter, the petitioner was served with a show cause notice vide letter No.339 dated 31.10.2005 for committing negligence and omission while he was posted as JE under Chief Engineers/Senior Executive Engineers/Incharge, Punjab State Electricity Board, Raikot. The petitioner filed reply dated 22.12.2006 to the same, however, respondent vide order dated 01.02.2007 (Annexure P-5) imposed the penalty of stoppage of one increment as per regulation No.5 of the Punishment and Appeal Rule, 1971 of Punjab State Electricity Board. Dissatisfied with the same, petitioner preferred appeal, which was also dismissed vide order dated 27.12.2007 (Annexure P-6) and the review petition filed by the petitioner also stood dismissed vide order dated 09.07.2014 (Annexure P-7). Hence the present writ petition.

3. Learned counsel for the petitioner contends that the petitioner has retired on 31.10.2016, who was promoted as Additional Sub Divisional Officer on 31.10.2013 (Annexure P-2) i.e. after five years of his junior's promotion, namely, Prem Singh, who is stated to be promoted vide order dated 29.08.2008 (Annexure P-1) and the sole prayer is that the petitioner be also promoted at par with his junior, namely, Prem Singh with effect from the date i.e.

29.08.2008, vide which the said Prem Singh was promoted. He further contends that through office order bearing No.95 dated 01.02.2007 (Annexure P-5), one increment of the petitioner without cumulative effect was stopped. Aggrieved against the same, he filed appeal, which was dismissed vide order dated 27.12.2007 and the review petition was also decided against the petitioner vide order dated 09.07.2014, therefore, he prays for quashing of all above three orders.

4. Per contra, learned counsel for the respondent Nos.2 to 4 submits that petitioner was assigned the duty of overall In-Charge of the 11 KV Chakra feeder and there was breakdown on 15.07.2006 due to negligence of the petitioner, the same could not be repaired on time and was only repaired on the next day. Since the petitioner failed to perform his duty, which was specifically assigned to him, the penalty of stoppage of one increment without cumulative effect as per the Regulation 5 of Punishment and Appeal Rules, 1971 has been rightly imposed.

5. Learned counsel for the petitioner while referring to the rejoinder dated 06.02.2017 controverted the stand taken by the respondents and denied the same.

6. I have heard learned counsel for the parties and have perused the material available on record with the able assistance of the counsels.

7. By way of present petition, the petitioner has alleged discrimination in promotion and claimed parity qua his junior, who had been promoted on 29.08.2008 and has prayed for quashing of the order dated 01.02.2007 vide which the penalty of stoppage of one increment without cumulative effect has been imposed. This is the admitted case of the petitioner

that he was promoted as Additional Sub Divisional Officer on 31.10.2013. Once the respondent/department has promoted the petitioner as Additional Sub Divisional Officer then continuation of penalty has no value in the eyes of law and the fact regarding promotion of the petitioner has nowhere been denied in the reply. Rather respondents have admitted the contents of said para No.2 by stating being matter of record. Further, the date of promotion of said junior, namely, Prem Singh vide order dated 29.08.2008 (Annexure P-1) on the same post has also not been disputed and denied by the respondent No.2 to 4-PSPCL. Once there is no denial to the arguments as well as the stand taken by the petitioner in its pleadings, the same amounts to admission on part of the respondents.

8. Accordingly, the claim seeking promotion w.e.f. date of the junior, namely, Prem Singh dated 29.08.2008 is justifiable and even on the ground that the respondent Nos.2 to 4 themselves promoted the petitioner as Additional Sub Divisional Officer on 31.10.2013 (Annexure P-2), and the said Prem Singh was placed at Sr.No.6618, whereas the petitioner was placed at Sr.No.6617, which is evident from the promotion orders annexed with the present petition.

9. In the light of the above discussion, present writ petition is allowed and the orders dated 01.02.2007, 27.12.2007 and 09.07.2014 (Annexures P-5 to P-7) are hereby quashed. The respondents are directed to promote the petitioner w.e.f. 29.08.2008, the date from which his junior-Prem Singh had been promoted by granting him the deemed promotion and are also directed to calculate the consequential benefits within eight weeks from the receipt of certified copy of this order and thereafter the same shall be released within one month thereof, failing which the petitioner shall be entitled for the

interest @6% on delayed payment till its realization.

(DEEPAK MANCHANDA)
JUDGE

16.08.2023

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No