

210

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24331-2014
Decided on: 30.01.2023

DAVINDER KUMAR BANSAL

Petitioner

VERSUS

UHBVNL AND OTHERS

Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Munish Mittal, Advocate
for the petitioner.

Mr. B. D. Sharma, Advocate
for the respondents.

JAISHREE THAKUR J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of mandamus directing the respondents to re-fix the seniority of the petitioner with effect from the date when he was initially appointed on regular basis and also to re-fix his pay/pension accordingly.

2. In brief, the facts as stated are that the petitioner joined the services of the respondent-Nigam on 21.11.1972 as apprentice Linemen and was promoted as regular Linemen vide order dated 10.04.1973, which decision was

ratified vide order dated 16.10.1973. However, the said decision was subsequently withdrawn on 24.10.1973 and the petitioner was re-appointed as ALM in the scale of Rs.90-3-102/4-130 on 24.10.1973, who reported on the said post on 01.11.1973. The petitioner was again promoted as Linemen on 05.02.1986 and further promoted as Foremen on September, 2006. Then on 31.12.2008, the petitioner was promoted as Junior Engineer and on attaining the age of 58 years, he retired from service on 30.10.2011.

3. Learned counsel for the petitioner would contend that the seniority of the petitioner herein has been fixed by the department with effect from 22.08.1980 instead of 01.11.1973 and in this regard, he sent a legal notice to the department on 07.12.1999 (Annexure P-3). The respondent-department paid no heed to the legal notice of the petitioner. He would submit that similarly situated employees filed a Civil Suit before the District Court, which was decided in their favour and the appeal filed by the department against the said order stood dismissed right up till the High Court. The deemed date of seniority of the plaintiffs in the Civil Suit has been re-fixed and the benefit has been allowed to them from 01.11.1973 and on the basis of said Civil Suit, which stands upheld right up till the High Court, the petitioner herein claims the same benefit. He would rely upon a judgment rendered by this Court in **CWP No.6010 of 2014**, titled as **Prithvi Singh and others versus UHBVNL and others**, decided on **02.08.2018**, in support of his contention.

4. Learned counsel for the respondents would contend that the claim of the petitioner herein suffers from delay and laches as the petitioner herein sat for a considerable length of time and did not agitate for his grievances. He

would submit that the seniority of the petitioner was fixed as per rule by the erstwhile HSEB as well as Nigam and, therefore, the claim of the petitioner is baseless and unsustainable.

5. I have heard learned counsel for the parties and have also perused the pleadings of the case.

6. I find that there is no ground for interference in the said matter on the ground of delay and laches. From the pleadings available, it is clear that the petitioner herein was re-appointed as ALM with effect from 01.11.1973 and having accepted that said position, he has been given one promotion after the other based on his seniority. The first plea made for re-fixing his seniority was in the year 1999 and that too after a period of 26 years. The present writ petition has been filed after a period of three years of the petitioner having superannuated. The writ petition has been filed on the basis that similarly situated persons had been granted the relief of re-fixing of seniority with effect from 1973. The judgment as relied upon by learned counsel for the petitioner i.e. Prithvi Singh and other's case (supra) cannot be looked into since the petitioner therein had already filed a Civil Suit as far back as in 1992. The petitioner herein did not file any such suit as was done by aforesaid Prithvi Singh and others. The writ petition filed by Prithvi Singh and others was only to get a direction issued to the respondent-Nigam to re-fix the pay and pension of the petitioners therein in terms of the Civil Court decree, which judgment would not be applicable in the present case.

7. The instant writ petition has been filed after an inordinate delay of approximately 41 years and the same cannot be entertained because of

limitation. At best, a period of three years would have been allowed to the petitioner herein from the date his cause of action accrued, which benefit has not been availed of.

8. Consequently, the instant writ petition is dismissed.

(JAISHREE THAKUR)
JUDGE

30.01.2023
Chetan Thakur

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