

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25958-2023
Date of decision: 29.11.2023

Gopal SinghPetitioner

V/s

Punjab State Power Corporation Limited and others
...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr.Kanwaljeet Singh, Advocate
for the petitioner.

Mr. Jatinder Singh Gill, Advocate
for the respondents.

DEEPAK MANCHANDA J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents for grant of notional promotion to petitioner as Assistant Lineman/ALM from the date i.e. 21.04.1996 on which he completed the required seven years of service as Regular Team Mate, to release all notional benefits including revised pension etc. and other retiral benefits along with interest @ 12% per annum for delayed payment after granting notional promotion to the petitioner with all consequential benefits and further directions be issued to respondents for quashing the speaking order dated 09.06.2023 (Annexure P-5) passed by the respondents.

Factual matrix of the present case is that the petitioner joined the services of erstwhile Punjab State Electricity Board (presently Punjab State Power Corporation Ltd.) on 01.02.1979 as Workcharge Chowkidar. He has been

regularized in the Department as RTM/Regular Team Mate on 21.04.1989. The petitioner had completed his seven years of regular service as Regular Team Mate with PSEB/PSPCL on 21.04.1996 and was promoted/inducted into regular service as ALM/Assistant Lineman on 20.01.2000. It is also mentioned that the petitioner was granted his 1st/9 years Time Bound Promotional scale (TBPS) w.e.f. 20.01.2009 i.e. on completion of nine years regular service counted from the date of joining of his induction post i.e. Assistant Lineman. The petitioner was granted 2nd/16 years Time Bound Promotional scale (TBPS) on completion of 16 years regular service w.e.f. 20.01.2016 and retired from service on 31.05.2019 as ALM while working under Sr. Executive Engineer, Punjab State Power Corporation Ltd. P & M, Division Sangrur, District Sangrur.

Learned counsel for the petitioner contends that one junior employee, namely, Inderjit Singh and another employee, namely, Niranjn Singh, who joined the respondents-Department much after the joining of the petitioner were promoted earlier to the petitioner and petitioner has been ignored. Learned counsel further contends that while passing the impugned speaking order dated 09.06.2023 (Annexure P-5) the respondents-Department intentionally concealed/deleted the word "Regular Team Mate" because as per Regulation 9, the qualification and method of appointment of the PSEB (now PSPCL) Technical Services Class-III Regulation 1997, a non-matric employee after seven years service as Regular Team Mate/RTM is also eligible for the promotion as Assistant Lineman/ALM and to support his contention he relies upon PSEB (now PSPCL) Technical Services Class-III Regulations, 1997 (Annexure P-6).

Learned counsel for the petitioner also submits that first time bound promotional scale (9 years) and second time bound promotional scale (16 years)

have also been delayed and if the petitioner could have been promoted on

21.04.1996, the petitioner could have been granted first time bound promotional scale (9 years) and second time bound promotional scale (16 years) on 21.04.2005 and 21.04.2012 and then the petitioner would have been eligible for third time bound promotional scale (23 years) before his retirement, which has not been done as the respondents-Department lingered on the claim of the petitioner, who ultimately retired from services of ALM on 31.05.2019.

Learned counsel for the petitioner further submits that impugned order dated 09.06.2023 has been passed without any reason and same deserves to be quashed and the petitioner is entitled for notional promotion as Assistant Lineman w.e.f. 21.04.1996 on the date on which he completed the required seven years of service as Regular Team Mate/RTM.

Learned counsel for the respondents submits that the petitioner joined as Workcharge Chowkidar on 01.02.1979, who was retired on 31.05.2019 and his qualification was under martic at that time but he completed matriculation in March 2008 and as per PSEB(now PSPCL) Technical Services Class-III Regulation 1970 minimum educational and other qualification for promotion channel of under matric ALM is minimum seven years service as Workcharge LM/Workcharge Team Mate/Workcharge working on civil construction side.

He further submits that the petitioner has mislead this Court as after examining the case of the petitioner it was revealed from the record that petitioner was promoted on 21.04.1989 as RTM and further on 20.01.2000 as ALM and induction of said posts does not matter as a promotion is wholly on the basis of seniority. He also argues that as per record the petitioner joined services as Workcharge Chowkidar on 01.02.1979 and was under matric at that time and on the other hand, Sh. Niranjana Singh the other employee joined the services of respondents-Department on 03.09.1979 as Workcharge Team Mate. Hence, the

promotion case of the petitioner cannot be compared with Sh. Niranjana Singh as the benefits of Workcharge Team Mate cannot be claimed by the Workcharge Chowkidar so according to the regulations, Sh. Niranjana Singh was promoted earlier to the petitioner.

Learned counsel for the respondents again submits that the petitioner is seeking claim for promotion as ALM from 21.04.1996 and the present petition has been filed after the unexplained delay of more than 27 years, thus the same deserves to be dismissed on the ground of delay and laches and to support his contention, he relies upon the judgment rendered in *State of Uttaranchal and another Vs. Shiv Charan Singh Bhandari and others, (2013) 12 SCC 179*.

He again submits that the petitioner has not approached this Court with clean hands as he has already filed a Civil Suit No. *CS-6432-2013* on same cause of action which was withdrawn by the petitioner vide order dated 17.02.2014 where he also made a declaration to the Department that he would never file such a case against the Department in future but this fact of filing civil suit is not mentioned in the present petition.

I have heard learned counsel for the parties.

The present claim of the petitioner seeking promotion as ALM from 21.04.1996 is time barred which is being raised after the gap of more than 27 years and moreover, once the petitioner had already filed the civil suit on same cause of action claiming the same relief seeking promotion to the post of Assistant Lineman w.e.f. 05.09.1991 on the ground that defendant No.2 party therein junior to the petitioner was promoted on the post of Assistant Lineman and the same was dismissed as withdrawn on 17.02.2014 and now again raising the same plea by filing the present writ petition after the gap of more than 27

promotion conferred on the junior employee at the relevant time but he chose not to do so and junior employee held the promotion post for so many years as there was no challenge to the said promotion order.

The claim raised in the present petition is related to a stale claim and the dead grievance which has not given rise to any fresh cause of action after passing of 27 years.

In view of the above, delay and laches is a relevant factor to consider the claim of the petitioner, as per law, to determine whether the claim made by the petitioner is worth consideration or not.

Keeping in view the reference to the original cause of action which arose in the year 1996, seeking notional promotion as Assistant Lineman from the date i.e. 21.04.1996, the present petition has suffered from delay and laches as same has been filed after the gap of more than 27 years. Hence, the present writ petition deserves to be dismissed on this score only and accordingly the writ petition is dismissed.

29.11.2023
Sapna

(DEEPAK MANCHANDA)
JUDGE

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