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

CWP-18484-1996(O&M)

Date of decision: 30.09.2024

**Prem Singh Mor**

...Petitioner

**VERSUS**

**Haryana State Electricity Board**

...Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. R.K. Malik, Senior Advocate with  
Mr. Sunil Hooda, Advocate, for the petitioner.

Mr. Pradeep Rajput, Advocate, for the respondents.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of order dated 11.07.2008 (Annexure P-12) by which the upgradation of pay scale was granted to the petitioner with immediate effect i.e from 11.07.2008 instead of from the date of appointment, with a further prayer to direct the respondent to grant the aforesaid pay scale with effect from the date of appointment i.e. 24.05.1991 with all consequential benefits.

2. Learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner was appointed as a Safety Officer in the respondent-Board on 24.05.1991. At the time of appointment of the petitioner it was Haryana State Electricity Board which was thereafter bifurcated and the



petitioner remained employee of Haryana Power General Corporation. He submitted that since the petitioner was working as a Safety Officer, there is a provision under Rule 66(4) (3) (b) & (c) of the Punjab Factories Rules, 1952 which provides the scale of pay and other allowances to be granted to the Safety Officer including the Chief Safety Officer and the other conditions of their service shall also be the same as those of other Officers of the corresponding status in the Factory and in this regard, he has made a representation seeking grant the scale as per the provisions of Punjab Factories Rules, 1952. The concerned Chief Inspector of Factories in the year 2003 had also issued notice and threat for prosecution against violation of Punjab Factories Rules, 1952 on account of non-granting of status of Senior Executive and even the Chief Engineer had recommended to the Chief Engineer (Admn.) to grant the scale of Executive Engineer in the pay scale of Rs. 14700-18700/- to the petitioner. It was only vide Annexure P-12 dated 11.07.2008 that the petitioner has been granted the pay scale of Rs. 14700-18700/- but the same has been granted only w.e.f. 11.07.2008 because it was with effect from the date of the passing of the aforesaid order Annexure P-12.

3. Learned Senior Counsel has submitted that the limited prayer of the petitioner in the present case is that the petitioner has been granted the pay scale of Rs.14700-18700/- vide order dated 11.07.2008 (Annexure P-12) which should have been granted to him with effect from the date when he was appointed as a Safety Officer in the year 1991 and not with immediate effect i.e. 11.07.2008 and therefore, the prayer in the present petition is that the petitioner may be granted the benefit with effect from 24.05.1991.

4. On the other hand, learned counsel appearing on behalf of the respondent submitted that when the petitioner was appointed vide Annexure



P-3, there was a condition incorporated in the appointment letter i.e condition No.3(vi) that the appointment of the petitioner will be on the combined cadre of AE/Electrical in the Board and he will be required to serve and liable to transfer to any office within the jurisdiction of Haryana State Electricity Board or any other place at the direction of the Board and he will be governed by the general conditions as applicable to his category as per Board's policy from time to time. The aforesaid appointment letter (Annexure P-3) is dated 24.05.1991. He submitted that thereafter vide Annexure P-4 after about four years of the aforesaid letter of appointment dated 24.05.1991 wherein a condition was laid down, was modified and deleted on 08.05.1995 in which it has been specifically provided that it has been decided that the clause in the appointment letter of the petitioner that his appointment will be on the combined cadre of AE/AE (Electrical) in the Board appearing in his offer of appointment. Consequently, the aforesaid clause was deleted from the appointment letter of the petitioner to rectify the mistake which was caused at the first instance and the aforesaid modification/deletion was done with the approval of the Board in its meeting held on 18.04.1995.

5. Learned counsel for the respondent further submitted that the aforesaid modification and deletion of the condition of joint cadre was never challenged by the petitioner and he had accepted the same and had worked under the aforesaid condition till his retirement. He submitted that as per the aforesaid Rule 66(4)(3) (b) & (c) as so relied upon by the learned Senior Counsel only states that the Safety Officers or the Chief Safety officer shall be given the status of a Senior Executive and the scale of pay and other allowances to be granted to the Safety Officer including the Chief Safety Officer and the other conditions of their service shall be the same as those of



other Officers of the corresponding status in the Factory. He submitted that initially when the aforesaid appointment letter was issued it was a joint cadre of AE/Electrical in the Board then the provisions of Factories Act may have been made applicable because the status of the petitioner as a Safety Officer could have been equated with that of the AE/Electrical being a joint cadre but the mistake was rectified after about four years vide Annexure P-4 and the aforesaid clause was deleted. He submitted that there is no equivalence of the petitioner in terms of status or in terms of discharging of duties as a Safety Officer with that of any other category of employee in the respondent-Corporation and therefore, the aforesaid provisions of the Factories Rules would not be applicable to the present petitioner.

6. Learned counsel further referring to the reply filed by the respondent submitted that vide Annexure P-4 when the aforesaid clause was deleted then the petitioner gave a representation to the respondent for granting equivalence of pay scale and also requested the respondent to place him under the direct control of Chief Engineer. However, since the duties which were discharged by the petitioner as Safety Officer are different from that of a Superintending Engineer, the request of the petitioner for grant of status and pay and allowances equivalent to that of Superintending Engineer was considered by the erstwhile HSEB in its meeting dated 18.04.1995 and the case was not found to be feasible for acceptance as the duties discharged by the Safety Officer are entirely different from that of a Superintending Engineer. The aforesaid order was also informed to the petitioner vide Annexure P-6 dated 08.05.1995. He submitted that the petitioner has not challenged the aforesaid order as well and had accepted the same because the duties discharged by the petitioner as a Safety Officer were totally different from



that of any other officer of the Engineering Wing especially the Superintending Engineer.

7. Learned counsel further submitted that during the pendency of the present petition the post of the petitioner as Safety Officer was upgraded to that of the post of Chief Safety Officer as a personal measure vide Annexure R-1 dated 05.05.2000. Thereafter, the Board of the Directors of the respondent-Corporation on 03.07.2007 approved the upgradation of pay scale of the Chief Safety Officer to the pay scale of Rs. 14700-18700/- from the pay scale of Rs. 9025-14550/- subject to the approval of the Haryana Bureau of Public Enterprises. The State Government on 12.05.2008 conveyed the sanction for the purpose of upgradation of the pay scale for the post of Chief Safety Officer to the aforesaid pay scale of Rs. 14700-18700/- from the pay scale of Rs. 9025-14550/- as a personal measure to the petitioner with immediate effect and in this way, the pay scale of the petitioner was upgraded to Rs. 14700-18700/- and the same was accepted by the petitioner and he never raised any objection to the same. However, after about 12 years of the aforesaid order being passed, the petitioner moved an application for amendment of the present petition in which the aforesaid order (Annexure P-12) has been challenged by the petitioner on the ground that the petitioner should have been given the date of the aforesaid pay scale retrospectively with effect from the year 1991. Learned counsel while referring to the reply filed by the Corporation submitted that the post of Chief Safety Officer does not have any parity with the Executive Engineer/Superintending Engineer being a separate cadre with completely different skill set, work responsibilities, having separate recruitment and promotion policies, having different basic qualification and nature of work



which they perform is also different and therefore, the aforesaid Rule 66(4) (3) (b) & (c) is not applicable to the present petitioner.

8. Learned counsel also submitted that the benefit of pay scale of Rs. 14700-18700/- which has been granted to the petitioner vide Annexure P-12 is a result of upgradation of the post of the petitioner from Safety Officer to Chief Safety Officer and it was not because of the reason that any equivalence has been granted to the petitioner under the Factories Rules. Had it been a case of grant of equivalence under the Factories Rules, then probably the petitioner might have a case for granting of the pay scale from retrospective date but the aforesaid two are different being unconnected and therefore, the present petition is liable to be dismissed. He also referred to a Division Bench judgment of this Court in ***Kartar Singh versus Managing Director, HVPNL and others, CWP No.26962 of 2015, decided on 04.04.2018*** (Annexure R-2) whereby it was held that when the claim is belated, then the same is liable to be rejected and in the present case, he submitted that after the aforesaid order was passed, the petitioner has sought amendment after a period of 12 years, although the petition was pending before this Court.

9. I have heard the learned counsels for the parties.

10. The grievance of the petitioner is that he was appointed as a Safety Officer in the year 1991 and as per Rule 66(4) (3) (b) & (c) of the Factories Rules, the petitioner was entitled for grant of the same status as that of the other officers of corresponding status in the Factory. Rule 66(4) (3) (b) & (c) as so relied upon by the learned Senior Counsel for the petitioner is reproduced as under:-

*“66(4)(3) (b) The Chief Safety Officer or the Safety Officer in the case of factories where only one Safety Officer is required to be*



*appointed, shall be given the status of a Senior Executive and he shall work directly under the control of Chief Executive of Factory. All other Safety Officers shall be given appropriate status to enable them to discharge their functions effectively.*

*(c) The scale of pay and other allowances to be granted to the Safety Officer including the Chief Safety Officer and the other conditions of their service shall be the same as those of other Officers of the corresponding status in the Factory.”*

11. A perusal of the aforesaid Rule would show that it provides that the Chief Safety Officer or the Safety Officer in the case of factories where only one Safety Officer is required to be appointed shall be given the status of a Senior Executive and he shall work directly under the control of Chief Executive of Factory and it further provides under clause (c) that the scale of pay and other allowances to be granted to the Safety Officer including the Chief Safety Officer and the other conditions of their service shall be the same as those of other Officers of the corresponding status in the Factory.

12. The petitioner was appointed as a Safety Officer and he is claiming parity with that of the Executive Engineer/Superintending Engineer of the same Institution. However, learned Senior Counsel for the petitioner has not been able to make out any ground with regard to how the petitioner was equivalent to any other Executive Engineer/Superintending Engineer. The aforesaid provision would be applicable only when the conditions of service of Safety Officer are to be treated for the purpose equivalence with those other officers of the corresponding status in the Factory but such a corresponding status in the Factory has not been brought to the notice of this Court. On the other hand, a perusal of clause 3(vi) of the appointment letter (Annexure P-3) of the petitioner would show that his appointment was on the combined cadre



of AE/Electrical in the Board and this letter of appointment was issued on 24.05.1991 and just after four years vide Annexure P-4, the aforesaid clause was deleted on 08.05.1995. Clause 3(vi) of Annexure P-3 and Annexure P-4 are reproduced as under:-

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*“3(vi) Your appointment will be on the combined cadre of AE/Electrical in the Board. You will be required to serve and liable to transfer to any office within the jurisdiction of Haryana State Elec. Board or any other place at the direction of the Board. You will be governed by the General Conditions as applicable to your category as per Board's policy from time to time.*

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#### *Annexure P-4*

#### *HARYANA STATE ELEC. BOARD.*

*OFFICE ORDER NO.445/EBG-2681 Dated : 8.5.95.*

*The Board vide its advertisement No. CRA-127 advertised One post of Safety Officer with the following qualifications: -*

- a) The candidate must have passed Degree in Elect./ Mech. Engg.*
- b) The candidate must have passed Degree in Industrial Safety recognised by the State Govt.*

*The above qualifications were relaxed for departmental candidates vide letter No. Ch. 4/CRA-0-56/127/Vol. II dated 13.11.89.*

*Degree Holder with two years experience or  
Diploma Holders with 5 years experience working in  
a factory in a Supervisory capacity alongwith a  
degree or Diplona in Industrial Safety.*

*OR*



*possess a degree or Diploma with five years experience dealing with administration of Factories Act, 1948 or India Dock Labourers Act, 1934*

*OR*

*Degree or Diploma with 5 years experience working full time in training education, consultancy or research in the field of accident prevention in Industry or Institution.*

*Sh. P.S. Mor, who was working as JE in PTPS was a departmental candidate and possessing Diploma in Electrical Engg. and Post Diploma Course in Industrial Safety was covered by the above related qualification was selected as Safety Officer and was issued offer of appointment for the said post vide No. CH. 1/EG-587 dated 24.5.91 in para 3(vi) of which, it was mentioned as under: -*

*"Your appointment will be on combined cadre of the AE/AEE( Electrical) in the Board. "*

*Since, Sh. P.S.Mor, was not appointed as Safety Officer from the Cadre of AE/AEE( Electrical) does not possess degree in Electrical/Mech. Engg. and Industrial Safety and because of the fact that functions and dues of the Safety Officer and that of A.E. are separate of each officer, the question of his being on the combined cadre of AE/AEE (Electrical) was thus reviewed by the Board in its meeting held on 18.4.95. It has therefore, accordingly been decided to despite the clause, 'Your appointment will be on the combined cadre of AE/AE (Electrical) in the Board' appearing in his office of appointment and consequently the said clause is hereby deleted from your offer of appointment to rectify the mistake which was caused at the first instance. This issues with the approval of the Board in its meeting held on 18.4.95.*



*Sd/- Secretary, HSEB,  
Panchkula.*

13. A combined reading of the aforesaid would show that although initially for four years the petitioner was in a joint cadre with that of an Assistant Electrical Engineer and in that situation the petitioner might have got some case for the purpose of seeking any equivalence with that of the Executive Engineer but the aforesaid clause was deleted way back on 08.05.1995 vide Annexure P-4 and the same was never challenged by the petitioner and he accepted the same. Therefore, the question that would arise would be as to whether after the deletion of the aforesaid clause the status of the petitioner could have been equated with that of the any other Executive Engineer or Superintending Engineer or not. Categorical reply has been filed by the respondents by stating that the status of the petitioner cannot be equated with that of the other Executive Engineer or Superintending Engineer because the nature of duties etc. is totally different from that of the Safety Officer.

14. Apart from above, under Rule 66(4) (3) (b) only status is to be given to a Safety Officer of that of Senior Executive. Learned Senior Counsel for petitioner was not able to show who would be the Senior Executive and how AE/Executive Engineer/Superintending Engineer would be a Senior Executive with whom petitioner is claiming parity. Learned Senior Counsel was also not able to show as to how status would mean pay parity as well.

15. The petitioner moved a representation for the grant of the aforesaid equivalence again but the same was also rejected vide Annexure P-6 on 08.05.1995 which was also not challenged by the petitioner.

16. Now the claim of the petitioner is that since during the pendency of the present petition Annexure P-12 has been passed on 11.07.2008 and he



has been granted the pay scale of Rs. 14700-18700 as a personal measure but the same ought to have been granted to the petitioner w.e.f. 1991 because he was appointed in the year 1991 as a Safety Officer. The argument raised by the learned Senior Counsel seems to be attractive but does not cut any ice. The aforesaid order Annexure P-12 has been passed by granting the pay scale of Rs. 14700-18700 to the petitioner on the basis of a special measure which is in the nature of a personal measure which has been granted to the petitioner on the basis of upgradation of his own post of Safety Officer to that of the Chief Safety Officer and rather it is also stated that as and when the post of the Chief Safety Officer is vacated by the petitioner, the aforesaid pay scale will revert back to Rs. 9025-14550. The aforesaid order (Annexure P12) is also reproduced as under:-

HARYANA POWER GENERATION CORPORATION  
LIMITED.

*Office Order No. 475/CE/Admn./Gen.      Dated: 11.7.2008*

*The Board of Directors, HPGCL in its meeting held on 3.7.2007 approved the up-gradation pay scale of Chief Safety Officer, PTPS, Panipat to the pay scale of Rs. 14700-400-18700 from the existing pay scale of Rs. 9025-325-14550 subject to the approval of Haryana Bureau of Public Enterprises. The State Govt. vide letter no.16/16/2004-4 Power dated 12.5.2008 conveyed the sanction to the up-gradation of the pay scale of the post of Chief Safety Officer, Panipat Thermal Power Station, Panipat from Rs. 9025-14550 to Rs. 14700-400-18700 as a personal measure to the present incumbent Sh. P.S. Mor with immediate effect. As and when the post of Chief Safety Officer is vacated by the said incumbent, its pay scale will revert to Rs. 9025-14550 forthwith.*

*Sd/- Under Secy./Gen.*



For Chief Engineer/Admn.  
HPGCL, Panchkula

17. In other words, the relief which has been granted to the petitioner vide Annexure P-12 during the pendency of the present petition is not because of giving him equivalence under the Factories Rules with any other cadre or any post but the same has been done as a personal measure by way of upgradation of the post which is already existing i.e. Safety Officer on which the petitioner was working to the post of Chief Safety Officer as a personal measure and a one time measure with a condition that when the post of Chief Safety Officer is vacated by the petitioner, then the aforesaid pay scale will revert to Rs. 9025-14550. Therefore, the grant of equivalence under the Factories Rules and the upgradation of the post are two distinct processes and they are not inter-connected with each other. Although the petitioner has been granted the benefit of the same pay scale of Rs. 14700-18700 but it would not cause any infringement or would not raise any presumption that it was because of any equivalence being granted with regard to any other post.

18. In view of the aforesaid facts and circumstances, this Court is of the considered view that the prayer made in the present petition is misconceived and is not sustainable.

19. Consequently, the present petition is dismissed.

(JASGURPREET SINGH PURI)  
JUDGE

30.09.2024  
rakesh

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