



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

CWP-14916 of 1999 (O&M)

Reserved on: 02.09.2024

Pronounced on: 13.09.2024

Daya Ram and others

.....Petitioners

Versus

The Punjab State Electricity Board (now PSPCL) and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: - Mr. Bhim Sen Sehgal, Advocate,
for the petitioners.

Mr. Parminder Singh, Advocate,
for the respondents.

NAMIT KUMAR, J.

1. The petitioners have approached this Court under Article 226 of the Constitution of India seeking quashing the impugned Circular No.6/93 bearing office order No.289/Fin. dated 05.02.1993 (Annexure P-6) and letter No.1531/EP/AEE/E7-2 dated 09.06.1999, endorsed on 27.07.1999 (Annexure P-17), and for treating the petitioners at par with the diploma-holder Junior Engineers.

2. The brief facts of the case, as have been pleaded in the petition, are that the petitioners were originally appointed as Assistant Linemen/Linemen in the respondent-erstwhile Punjab State Electricity Board (now PSPCL) on various dates between 09.02.1956 to 07.03.1969 and they were further promoted as J.E.-I/J.E.-II and retired as such on attaining the age of superannuation. Vide impugned Circular dated 05.02.1993 (Annexure P-6) it has been provided that



post of Junior Engineer, Grade-II/J.E.-II Sub Station (SSO) will be the induction post for diploma-holder Linemen/SSA promoted as J.E.-II/J.E.-II Sub Station (SSO) against the quota reserved for them for the grant of time bound promotional/devised promotional scales on completion of 9/16 years regular service. It was further provided that this induction post is to be considered from the date of joining on the post of Junior Engineer-II/J.E.-II Sub Station/SSO. However, in the case of non-diploma holders (like petitioners), the induction post of JE-II/JE-II Sub Station (SSO) is considered as regular appointment as Assistant Lineman or Lineman. Therefore, it is the case of discrimination as petitioners being senior-most JEs are getting less pay than the diploma-holder J.Es. despite the fact that both are performing duties of similar nature and having common seniority.

3. Written statement on behalf of the respondents has been filed whereby the claim of the petitioners has been contested and it has been stated that except petitioner No.1 all the petitioners have already retired from service during the period between 1994 to 1997 i.e. prior to filing of the petition and while in service they never agitated the claim raised in the present petition. It is further stated that with a view to avoid stagnation in the services of the employees of the Board, a scheme was framed envisaging premature benefits like promotional scales on completion of period of 9/16 years which otherwise are not provided under the service regulations of the employees. Petitioner No.1 was given promotional scale in the year 1994 w.e.f. 01.01.1987 but he never agitated the same during his service. It is further stated



that petitioners No.2 to 6 were not eligible for the promotional scale and the devised promotional scale has already been given to petitioner No.1, treating the post of Lineman as his induction post.

4. Learned counsel for the petitioners contended that petitioners have been discriminated as non-diploma holder JEs (petitioners) and diploma-holder JEs are performing the same duties, however, petitioners despite being seniors are drawing less salaries than the diploma-holder JEs. He further contended that petitioners cannot be denied the equal pay for equal work.

5. *Per contra*, learned counsel for the respondents has submitted that petitioners are not entitled to any relief as while in service they never agitated the claim raised in this petition. He further contended that benefit of second time-bound devise promotional scale was given to petitioner No.1 in 1994 from 01.01.1987.

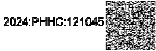
6. I have heard learned counsel for the parties and perused the record.

7. The present petition pertains to the year 1999 and the matter was admitted on 09.12.2002. On 24.07.2024 the following order was passed: -

“Learned counsel for the petitioners in CWP-14916-1999 submits that petitioners No.4 to 6 have unfortunately died during the pendency of the present petition and she seeks time to implead their LRs.

Adjourned to 02.09.2024.

A photocopy of this order be placed on the file of other connected case.”

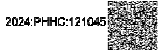


However, no application for impleading the LR's of petitioners No.4 to 6 has been filed.

8. Petitioners, who were appointed as Assistant Linemen/Linemen in the respondent-Board and are non-diploma-holders are claiming parity of pay scale with diploma-holder Assistant Linemen/Linemen. Vide office order dated 09.05.1974 following quota was fixed by the respondent-Board.

- | | | |
|---|--|-----|
| 1 | <i>By direct recruitment from the open market from amongst diploma holders.</i> | 34% |
| 2 | <i>By promotion of diploma holder linemen already in the service of the Board.</i> | 33% |
| 3 | <i>By promotion from amongst the non-diploma holder Linemen of various categories.</i> | 33% |

9. There is different quota meant for promotion amongst diploma-holder Linemen and non-diploma-holder Linemen. As per Service Regulations, diploma-holder Linemen are selected against the post meant for direct recruits out of the regular line of promotion in which they never compete with the non-diploma-holder Linemen like the petitioners. The pay scales have been devised keeping in view the educational qualifications of the Linemen. Once the benefit of devised promotional scale has been given to an employee the same is treated as his induction post. Whereas petitioners No.2 to 6 have failed to get promotional scale as in terms of relevant scheme, they have got two promotions prior to their date of retirement. For the purpose of grant of



commencement of service, on the lowest post on which regular appointment has been made through direct recruitment in the concerned cadre. The circular dated 31.08.1990 (Annexure P-5) clearly shows the distinction in the pay scale and also incentives to be given to the persons who intends to improve their qualifications, therefore, the pay scale of Rs.2200-4250 was available to the J.Es. who were diploma-holders. As discernible from the record, the induction post of the petitioners has been treated as of ALM and LM and not the JE-II in terms of circular dated 31.10.1995 (Annexure R-3/2). Petitioners have not been able to give any instance to show as to which junior is getting more pay as compared to them. Petitioner No.1 has already been given the benefit of devised promotional scale treating the Lineman as his induction post.

10. Keeping in view the above, it is held that there is no parity between diploma-holder Linemen and non-diploma-holder Linemen, and hence they are not entitled to claim equal pay for equal work. In the given facts and circumstances of the case, the present petition is dismissed.

13.09.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No