

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CWP-2319-2000 (O&M)
Date of decision: 04.04.2024

SADHU SINGH AND OTHERS

....PETITIONERS

Vs.

B.B.M.B. AND OTHERS

...RESPONDENTS

CWP-2320-2000 (O&M)

RAM PARKASH

....PETITIONER

Vs.

B.B.M.B. AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. G.S. Bal, Senior Advocate with
Mr. Lovepreet Kaur, Advocate and
Ms. Gurneet Kaur, Advocate
for the petitioners.

Mr Rajesh Garg, Senior Advocate with
Mr. Mandeep Singh, Advocate and
Ms. Neha Matharoo, Advocate
for the respondents.

JAGMOHAN BANSAL, J (ORAL)

1. By this common order CWP-2320-2000 and CWP-2319-2000 are being disposed of since issues involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-2319-2000.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 27.10.1999 (Annexure P-10) whereby benefit of 1st and 2nd Time Bound Promotional Scale (for short 'TBPS') has been withdrawn.

3. In this writ petition, there are 3 petitioners namely Sadhu Singh, Hans Raj and Mangat Ram. For the sake of convenience, the facts of Sadhu Singh are noticed. He joined as Junior Electrician in 1965. There is no dispute that he was appointed on the post of Electrician (Special) w.e.f. 01.02.1967. There is dispute with respect to his promotion from the post of Junior Electrician to Electrician also known as Electrician Grade-II.

4. As per petitioner (Sadhu Singh), he was never promoted as Electrician. He was appointed as Electrician (Special) w.e.f. 01.02.1967 as soon as he passed ITI Course. The post of Junior Electrician and Electrician was non ITI post whereas Electrician (Special) was post of ITI qualified. The respondent in 1997 adopted instructions issued by Punjab State Electricity Board with respect to TBPS. The respondent decided that every employee would be entitled to first TBPS on completing 9 years' service and second on completing 16 years of service.

5. The respondent vide order dated 10.10.1997 extended benefit of Ist and IInd TBPS to petitioners. In the order dated 10.10.1997, the date of appointment of Sadhu Singh as Junior Electrician was noted as 10.11.1965 and 21.04.1966 as Electrician (Special).

6. The respondent on the complaint of colleagues of petitioners, reviewed the matter and by impugned order dated 27.10.1999 withdrew the already granted benefit of 1st and 2nd TBPS.

7. Mr. G.S. Bal, Senior Advocate, submits that petitioners were never promoted from the post of Junior Electrician to Electrician. They cleared ITI Course and came to be directly appointed as Electrician (Special) w.e.f.

01.02.1967. The respondent has manipulated its record after 33 years from the date of appointment of petitioners. The respondent in 1999 made entries in the service book of petitioners to the effect that they were promoted in 1966 and 1967 as Electrician and Electrician (Special) respectively.

8. Per contra, Mr Rajesh Garg, Senior Advocate, submits that as per Annexure P-11, it is evident that Sadhu Singh (petitioner No. 1) was promoted to the post of Electrician (Special) w.e.f. 21.04.1966. The designation seems to be incorrectly recorded. He was actually promoted on the said date to the post of Electrician. In the service book of the petitioners, proper entry was recorded. As per service book, the petitioners were promoted in 1966 and thereafter 1967. As they received two promotions from the date of their appointment, thus, they were not entitled to TBPS. Disputed questions of fact are involved. The petitioners should approach Civil Court.

9. I have heard the arguments of learned counsel for the parties and have perused the record.

10. The respondent concededly extended benefit of TBPS by order dated 10.10.1997. The respondent was possessing record of petitioners. There was no misrepresentation on their part. The respondent on its own extended to them benefit of 1st and 2nd TBPS. The respondent, at the most could withdraw said benefit from prospective date because there was no lapse on the part of the petitioners.

11. The petitioners are claiming that they were never promoted from the post of Junior Electrician to Electrician and respondent is claiming that as per record available with them, they were firstly promoted in 1966 from the post

of Junior Electrician to Electrician and thereafter in 1967 to the post of Electrician (Special).

12. As per petitioners, respondent has manipulated and fabricated its record. This Court while exercising its writ jurisdiction cannot determine authenticity or genuineness of record produced by both sides. There is no concrete or absolute evidence on record from which this Court can reach to a conclusion that petitioners were promoted in 1966 or not. There is no dispute qua appointment in 1965 and thereafter promotion in 1967. The dispute is confined to promotion granted in 1966.

13. In view of disputed facts and evidence led by both sides, this Court does not finds it appropriate to invoke its writ jurisdiction and decide disputed questions of fact.

14. Counsel for the parties are *ad-idem* that amount paid during 1997 to 1999 has already been recovered by respondents. In view of above facts and findings, the respondent shall refund aforesaid amount without interest to petitioners. It is made clear that refund of said amount would not affect merits and contentions of both sides with respect to impugned order and prospective demand/liability.

15. The petition is disposed of with liberty to the petitioners to avail remedy as permissible by law.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

04.04.2024
manoj

Whether speaking/reasoned
Whether reportable

[JAGMOHAN BANSAL]
JUDGE
Yes/No
Yes/No