

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of Decision: 14.02.2024

1. LPA No. 1099 of 2021

Er. Ajaib Singh MehtaAppellant
versus
Punjab State Power Corporation Ltd. and othersRespondents

2. LPA No. 1100 of 2021

Er. Prem Singh ShahiAppellant
versus
Punjab State Power Corporation Ltd. and othersRespondents

3. LPA No. 1101 of 2021

Er. Yash Pal MunjalAppellant
versus
Punjab State Power Corporation Ltd. and othersRespondents

4. LPA No. 1102 of 2021

Er. Ram Asra Singh SianAppellant
versus
Punjab State Power Corporation Ltd. and othersRespondents

5. LPA No. 1103 of 2021

Er. Balwant Singh SodhiAppellant
versus
Punjab State Power Corporation Ltd. and othersRespondents

CORAM: HON’BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE
HON’BLE MR. JUSTICE VIKAS SURI, JUDGE

Present : Mr. H.S.Saini, Advocate, for the appellants.

Mr. Sehajbir Singh, Advocate with
Mr. Baltej Singh Walia, Advocate for

Ms. Diya Sodhi, Advocate, for the respondent-PSPCL.

Mr. Salil Sabhlok, Sr. Deputy Advocate General, Punjab.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (ORAL)

CM No. 2565-LPA-2021 in LPA No. 1099 of 2021

For the reasons mentioned in the application, delay of 25 days in filing the appeal is condoned. Application stands disposed of.

Main appeals

All these appeals filed by the appellants are directed against the impugned order dated 17.01.2020 passed by the learned Single Judge whereby the writ petitioner-Punjab State Power Corporation Ltd. (for short 'the Corporation'), (now respondent No.1), has been given liberty to claim the proportionate share of the liability from the Central Government of India and its institutions by re-calculating the same and the admissible liability under the Rules will be reimbursed by the respondents-institutions within a period of four months, as undertaken by the learned counsel for the respondents, namely, State of Punjab; Union of India; Chief General Manager, Telecom and Deputy General Maintenance and General Maintenance, Tel Exchange.

2. Apparently, the Corporation was aggrieved against the rejection of its demand regarding the proportionate share of the pension and other retiral benefits of the employee, namely, Er. Ajaib Singh Mehta, which it had calculated at Rs.1,24,854/- vide communication dated 21.05.2014 (Annexure P-11), who apparently had worked with respondent No.4 from 14.05.1972 to 19.01.1975. The said communication was issued in pursuance of the order passed by the Apex Court in Special Leave to Appeal (Civil) No. 9029 of 2013 filed by the Corporation, decided on 14.02.2014, whereby the order dated 30.09.2011 passed by the learned Single Judge in Civil Writ Petition No. 5187

of 2011 titled *PSPCL vs. Er. Ajaib Singh Mehta*, in favour of the employee had been upheld. In response thereof, vide letter dated 12.03.2015 the Corporation received only Rs.1707/- against the pension liability of the said employee. Resultantly, the Corporation wrote back returning the said amount and re-demanded the original amount of Rs.1,24,854/-. The challenge thus was with regard to the paltry amount remitted vide letter dated 12.03.2015.

3. The learned Single Judge, while noting the history of the litigation, which had started and consistently followed as the first order was passed on 12.09.2008 in Letters Patent Appeal No. 115 of 2006 (*Punjab State Electricity Board vs. State of Punjab and others*) had passed a detailed order on 05.10.2010 in Civil Writ Petition No. 12278 of 2010 (*Er. Ramesh Chander Mahajan vs. State of Punjab and others*) and directed the Corporation to verify the services rendered by the appellants in the Government of India/other organizations. Upon verification if the services rendered by the employees, if found to be covered under the Government Instructions dated 31.03.1982, the benefit of such services was to be granted to them towards the 'qualifying service' within a period of two months. On the other hand, a direction was also issued that the Government of India/its agencies/other boards will also be at liberty to verify the service particulars of the employees and intimate the Punjab State Electricity Board in this regard and reimburse to the PSEB their proportionate share in lump sum towards the pension and other benefits payable to the employees.

4. The said order was upheld by a Division Bench of this Court in a lead case i.e. Letters Patent Appeal No. 169 of 2012, decided on 17.10.2012, arising out of Civil Writ Petition No. 6085 of 2007 by placing reliance upon a judgment of the Apex Court in *Punjab State Electricity Board and another vs. Narata Singh and another 2010(2) SCT 732*. It is to be noticed that

the matter was further upheld by the Apex Court vide order dated 14.02.2014 passed in Special Leave to Appeal Civil No. 12028 of 2009 (Annexure P-8). In ***Punjab State Electricity Board and another vs. Narata Singh*** (supra), the following observations were made by the Apex Court:-

“The effect was that an employee holding substantively a permanent post on the date of his retirement was entitled to count in full as qualifying service the periods of service in work charged establishments. In view of this settled position, there is no manner of doubt that the work charged service rendered by the respondent No.1 under the Government of Punjab was qualified for grant of pension under the rules of Government of Punjab and, therefore, the Board was not correct in rejecting the claim of the respondent for inclusion of period of work charged service rendered by him with the State Government for grant of pension, on the ground that service rendered by him in the work charged capacity outside PSEB and in the departments of the State Government was a non-pensionable service.”

5. The inter-se battle between the Corporation and the agencies continued regarding the non-disbursement of the amount and the appellant-employees were arrayed as respondents. Passing observations as such have been made, which are in consonance of the earlier observations that the verification is to be done and in case it is found that the entitlement of the employee is not there, the Corporation has been given the benefit to reclaim the amount from the employee. The necessary protection as such to grant opportunity of hearing to the employees on passing appropriate orders has also been left open. The same was done only in the facts and circumstances that credentials of the employees and whether they have worked or not with the Government of India or its organizations which had to be taken into account even by noting that the plea on behalf of the said agencies was belated. The

relevant observations made by the learned Single Judge in the impugned order dated 17.01.2020, which are objected to by the employees, are as under:-

“Further, in case, there is any dispute with regard to the amount which the Corporation has paid on behalf of the Government of India or its Institution and ultimately, it is found that the Government of India or its Institution is not liable to reimburse the full amount as being claimed from them due to wrong calculations and the amount paid by the Corporation was over and above the entitlement of the employee, the Corporation will be within its jurisdiction to re-claim the said amount from the concerned employee, in accordance with law.

It is made clear that in case, the Corporation has to re-claim the amount from the employees, the same can only be done after affording due opportunity of hearing to the said employees and by passing an appropriate order in that regard.

Learned counsel for the respondents further states that the liberty be given to the respondent-Department to verify the credentials of all the employees as to whether they have worked or not with the Government of India or its organizations, for which they have been paid before the claim of the Corporation for the reimbursement of the amount is undertaken.

But at the same time, an employee if he/she has not performed the duties with the Government of India or its Institution and by making fake claims has got an excess amount from the Corporation beyond entitlement, the Central Government will be at liberty to initiate proper action against the concerned employee. In case it is found that he/she has not worked with the Department but still has received the benefit by suppressing the actual and correct facts, authority will be within their jurisdiction to recover the excess amount apart from other remedies available.”

6. We are of the considered opinion that the liberty which has been given is to ensure the interest of the Corporation in case the agencies in the Union of India totally deny the service period of the said employees with the agencies. It is only in such circumstances the window has been kept open, which has also been noticed by the learned Single Judge on an earlier occasion while passing the order dated 05.10.2010 in Civil Writ Petition No. 12278 of 2010. The same reads as under:-

“(i) The PSEB/Power Com shall be entitled to verify the service said to have been rendered by the petitioners in the Government of India/other Organization within a period of four months. If upon verification, the service rendered by the petitioners is found to be covered under the Government Instructions dated 31.03.1982 as adopted by the Board on 25.11.1985, the benefit of such service shall be granted to the petitioner towards the ‘qualifying service’ within a period of two months thereafter;

ii) The Government of India/its agencies/other Boards shall also be at liberty to verify the service particulars of the petitioners and intimate the PSEB in this regard and reimburse to the PSEB their proportionate share in lump sum towards the pension and other retiral benefits payable to the petitioners within a period of six months.”

7. In such circumstances, we do not find any plausible explanation to entertain all these appeals at the instance of the employees. Accordingly, there is no merit in the appeals and the same are accordingly dismissed.

8. Needless to say that if any show cause notice is issued, the above-said observations obviously will not come in their way as each and every individual will have a separate defence and justification on the basis of service in case his claim is found to be incorrect.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(VIKAS SURI)
JUDGE

14.02.2024

ravinder

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