

**CM-506-LPA-2017 in/and
LPA-241-2017**

2024:PHHC:143251-DB



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

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LPA-241-2017
Date of Decision: November 04, 2024**

Kuldeep Singh Appellant

Versus

**The Secretary, Punjab State Powercom Corporation Ltd. and others
..... Respondents**

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. K.S. Sidhu, Advocate for the appellant.

Ms. Mehak Sawhney, Advocate for respondent/PSPCL.

LISA GILL, J.

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1. For the reasons mentioned in the application as well as arguments addressed, delay of 05 days in filing the appeal is condoned.

2. Application is, accordingly, disposed of.

LPA-241-2017

1. This appeal has been filed for setting aside order dated 07.12.2016 whereby CWP-25284-2016 filed by appellant (writ petitioner) has been dismissed.

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2. Appellant (writ petitioner) filed CWP-25284-2016, seeking direction to respondent – Department to grant all promotional benefits with consequential benefits i.e. increments, revised pension and arrears alongwith interest at the rate of 12% per annum in the rank of Assistant Engineer (AE) (OT) from the date of his promotion on said post vide order dated 10.06.2010. Appellant pleaded that he served the Department with dedication after joining as G.D.M. on 19.04.1974. He was promoted to the post of Draftsman on 19.07.1976 and to that of Head Draftsman in the year 1986. He was further promoted as Circle Head Draftsman in the year 2005 and to the post of Assistant Engineer/OT (Electrical) vide order dated 10.06.2010. These promotions, it is stated, were given at belated stage to the appellant (writ petitioner). As per order dated 10.06.2010 promoting the writ petitioner to the post of AE(OT), it is mentioned that:

“2. The above official shall undergo training for a period of 6 months as per Regulation 10.4 of Erstwhile PSEB Service of Engineers (Electrical) Regulations, 1965 and he would work in his own pay scale. He will be considered for promotion as AE/Electrical after the receipt of report of work and conduct.”

3. Appellant (writ petitioner) submitted representation attached as Annexure P5 with writ petition seeking waiver of training period. This request, it is submitted, was forwarded by Deputy Chief Engineer, Distribution Halqa, Faridkot while recommending the same to the Chief Engineer/Distribution (West) Zone, Bathinda. Appellant in the meantime retired on 31.08.2010 on attaining the age of superannuation. Number of employees junior to the appellant, it was pleaded, had been afforded

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promotions in an illegal manner. Period of training was not waived of in his case in an arbitrary fashion.

4. CWP No. 25284 of 2016 was filed by appellant (writ petitioner), in December, 2016 seeking a direction to respondents to grant “promotional benefits with all consequential benefits i.e. increments, revised pension and arrears alongwith interest @ 12% per annum in the gazette rank from the date of his promotion as Assistant Engineer (A.E.) (O.T.) vide order No. 112/B.E.G. dated 10.06.2010 (Annexure P1) issued by respondent No. 1 and further alternative prayer to direct the respondents – department to take final decision on a Comprehensive Representation dated 16.10.2014 (Annexure P10) submitted by the appellant to its logical end.”

5. Learned Single Bench while considering the facts and circumstances of the matter concluded that there was no explanation whatsoever set forth by appellant for delay of about six years and four months in approaching this Court for seeking grant of promotional benefits, increment alongwith revised pension. Writ petition was found to be barred by delay and latches and was, accordingly, dismissed. Aggrieved therefrom, present appeal has been filed.

6. Learned counsel for appellant (writ petitioner) vehemently argues that as it is the pension of appellant which would be effected, it is a continuing cause of action available to him, therefore, dismissal of writ petition on the ground of delay and latches is absolutely erroneous. Matter should have been considered on merits and adjudicated upon. It is further argued that petitioner on his promotion on 01.07.2010 immediately submitted representation for waiver of training period which was duly forwarded on 02.07.2010 itself by

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Deputy Chief Engineer, Distribution Halqa, Faridkot. It is, thus, prayed that this appeal be allowed.

7. Response of the respondents was permitted to be filed in this appeal as the writ petition had been dismissed in limine. Learned counsel for respondents submits that there is a specific provision i.e. Regulation 10.4 of (erstwhile) PSEB Service of Engineers (Electrical) Regulations, 1965 which provides that every eligible Chief Draftsman/Circle Head Draftsman would be required to serve as Junior Engineer (Grade II) for six months in his own pay scale and would then be eligible for promotion after having satisfactorily completed training period. Chief Head Draftsman is also required to pass Department Accounts Exams meant for Technical subordinates. It is submitted that appellant concealed the fact that he had not passed the said exam till 2008-09 when his case was considered for promotion by DPC. He cleared the said exams on 01.04.2010 upon which he became eligible for promotion. Therefore, argument that other officials junior to him have been wrongly promoted, is denied being incorrect as the said juniors had successfully cleared both the required examinations and had also completed six months of requisite training. It is appellant's ineligibility to clear Department Accounts exam that consideration of his promotion was delayed. Learned counsel for respondents further submits that present is not a case of recurring cause of action and that the writ petition has been rightly dismissed being barred by delay and laches. Dismissal of the appeal is prayed for.

8. We have heard learned counsel for parties and have gone through the file with their able assistance, however, we do not find any ground to interfere in the matter. It is a matter of record that as per applicable Regulation

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i.e. Regulation 10.4 of (erstwhile) PSEB Service of Engineers (Electrical) Regulations, 1965, clearing of two Department Accounts exams meant for Technical subordinates was necessary for consideration for promotion as well as stipulation of having successfully completed six months training period. Admittedly, appellant took no steps in this regard for long years after his retirement on 31.08.2010. Writ petition was filed only in December, 2016. Doubtlessly, there is no limitation for filing writ petition but at the same time it is a settled position that necessary steps should be taken within a requisite time. Gainful reference in this regard can be made to judgments of Hon'ble the Supreme Court in **Bharat Coking Coal Ltd. and others vs. Shyam Kishore Singh (2020) 3 SCC 411**; **Union of India and others vs. N. Murugesan and others (2022) 2 SCC 25**; **State of Orissa and another vs. Laxmi Narayan Das (Dead) through LRs and others 2023 LiveLaw (SC) 527** and **Bichitrananda Behera vs. State of Orissa and others 2023 AIR (SCC) 5064**.

9. Learned counsel for appellant is unable to point out any ground, leave alone a reasonable one for explaining the delay at hand. It is further to be noted that appellant at no point of time challenged the promotion order to the extent of imposition of condition of undergoing training period for a period of six months. Argument raised on behalf of appellant that power of relaxation as envisaged under the Rules should have been exercised, is devoid of any merit as is the submission that relief should be granted to the appellant as it would not effect any other person adversely. Relief as claimed cannot be afforded on this plea. No such right is indicated to vest with the appellant for grant of relief as claimed.

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10. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 07.12.2016 passed by learned Single Bench.
11. No other argument has been addressed.
12. This appeal is, accordingly, dismissed with no order as to costs.

(LISA GILL)
JUDGE

(DEEPAK GUPTA)
JUDGE

November 04, 2024
Rts

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