2024:PHHC:120993-DB

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

1. **LPA-1552-2023(O&M)**
Date of Decision: September 12, 2024

Union of India and another .....Appellants

Versus

Punjab State Power Corporation Ltd. and others ..... Respondents

2. LPA-1556-2023 (O&M)

Union of India .....Appellant

Versus

Punjab State Power Corporation Ltd. and others ..... Respondents

3. **LPA-1559-2023 (O&M)**

Union of India .....Appellant

Versus

Punjab State Power Corporation Ltd. and others ..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Sunil Kumar, Advocate for the appellants.

Mr. Gurminder Singh, Senior Advocate with
Ms. Harpriya Khaneka, Advocate,
Mr. R.P.S. Bara, Advocate and
Mr. Karambir Singh, Advocate for PSPCL.

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LPA-1552-2023(O&M)

LISA GILL, J.

1. This order shall dispose of three appeals i.e. LPA Nos. 1552, 1556 and 1559 of 2023 as these appeals arise from common impugned order dated 17.01.2020 passed by learned Single Bench.

2. Abovesaid appeals have been filed challenging decision dated 17.01.2020 whereby 20 writ petitions filed by respondent - PSPCL were disposed of by the learned Single Bench. Grievance raised by respondent – PSPCL was that though it had paid pensionary benefits to its employees even for the period for which said employees had rendered service with Government of India/Government of Punjab and other institutions run by them, however, proportionate liability by the said Departments had not been reimbursed despite clear direction by this Court.

3. Brief facts necessary for adjudication of the matter are that one Ramesh Chander Mahajan, an employee who was working with Punjab State Electricity Board (predecessor of PSPCL) filed CWP-12278-2010. CWP-12278-2010 was decided on 05.10.2010, holding that service rendered by an employee with any other Government organisation/Government of India before joining PSPCL shall be taken in consideration as qualifying service for computing pensionary benefits. Respondent – Corporation was directed to re-determine qualifying service of the employee and grant consequential benefits to them. It was further directed that Government of India, its agencies or Boards etc. wherein employee had discharged duties prior to joining service(s) with the Corporation, will verify particulars of service of such employee and will intimate the Corporation in that regard and would further reimburse their proportionate share in lumpsum to the Corporation.

4. Decision dated 05.10.2010 in the case of Ramesh Chander Mahajan was challenged by Corporation vide LPA-1214-2011, which was dismissed on 21.07.2011 alongwith other LPAs. SLP-8094-2012 filed by PSPCL before Hon'ble the Supreme Court of India was also dismissed on 14.02.2014. Other writ petitions filed by similarly situated employees were allowed as well. As the order dated 05.10.2010 in Ramesh Chander Mahajan's case attained finality, PSPCL re-calculated qualifying service of employees and granted consequential benefits to which such employees had been held entitled, including the period of service rendered by such employees with Central Government or its institutions. After deposit of said payment with the employees, reimbursement thereof was sought by PSPCL from Central Government/its institutions qua their proportionate liability in terms of the dispensation in the case of Ramesh Chander. As the said reimbursement was not forthcoming, writ petitions as are detailed in impugned order dated 17.01.2020 were filed by PSPCL.

5. Objection raised by present appellants before the writ Court was that calculations regarding the proportionate liability have not been correctly carried out by PSPCL. Learned Single Bench took note of the stand of PSPCL that in view of instructions issued in 1986, Central Government or its institutions are liable for pro-rata reimbursement of pension, keeping in view the total length of service which an employee had rendered in totality with the Central Government/its institutions and petitioner – Corporation. It was agreed that PSPCL would re-calculate share of Central Government/its institutions where employees have discharged duties prior to joining Corporation and demand would again be raised by calculating their share keeping in view instructions dated 14.05.1986, relevant portion whereof is duly reproduced on page 12 and 13 of impugned order dated 17.01.2020.

6. Stand of appellants wherein it was stated that qua pro-rata share, as raised by the Corporation, after recalculation will be released within a period of four months was noted as hereunder:-

> "Learned counsel for the respondents states that keeping in view the statement made by the learned counsel for the petitioner, their grievance with regard to the claim of reimbursement, which was raised, stands satisfied. The prorata share, which the Government of India or its Institutions are liable to pay under Rules read with the order passed by this Court in ***Ramesh Chander Mahajan's*** case (*supra*) as already reproduced hereinbefore, for which claim will now be raised by the Corporation after re-calculation, will be released within a period of four months after the fresh claim of reimbursement is raised by the Corporation."

7. Plea raised on behalf of appellants that liberty should be given to them to verify credentials of all employees as to whether they have worked or not with Government of India or its organisations, should be permitted to be verified, was found to be unsustainable by the learned Single Bench inasmuch such a plea, it is recorded, should have been taken in the earlier round of litigation where the employee had approached the Court claiming benefit of counting of service rendered with Central Government or its institutions as qualifying service, as the Central Government/its institutions in question were admittedly parties to such litigation. No such objection had been taken by the present appellants in the said litigation, therefore, the plea was rejected. However, it was directed that in case of any employee having made a false or fake claim has got excess amount from the Corporation beyond his or her entitlement and had never performed duties with the Government of India, Central Government/its institutions shall be at liberty to initiate appropriate action against the government employee and said authority shall be within its

jurisdiction to recover the excess amount apart from other remedies available. All the writ petitions were disposed of as infructuous vide order dated 17.01.2020. Relevant portion thereof reads as under:-

> " Keeping in view the above, as the Corporation has undertaken to reconsider all the cases of reimbursement and to re-calculate the liability of the Central Government or its institutions afresh, keeping in view the proportionate liability of Government of India or such institutions, keeping in view the instructions dated 14.05.1986, the present writ petitions are disposed of as having been rendered infructuous. The Corporation will be at liberty to claim the proportionate share of the liability of 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.
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> All the aforesaid writ petitions stand disposed of in the abovenoted terms."

8. Present appeals have been filed by Union of India, Department of Telecommunications, on the ground that learned Single Bench has wrongly held that calculations qua pro-rata pension is to be determined in terms of instructions dated 14.05.1986. It is submitted that instructions dated 31.03.1982 had been withdrawn w.e.f. 01.04.1987 and that vide memo dated 21.04.1990 it had dispensed with any pensionary liability between Union of India and State Governments w.e.f. 01.04.1987. Moreover, PSEB (predecessor of PSPCL) in November 1990 had decided that liability for pension including gratuity shall be borne in full by the Central or State Government, as the case may be, to which the employee permanently belongs at the time of retirement. It is, thus, prayed that as per affidavit dated 08.01.2024 of Senior Accounts Officer, office of

Controller of Communication Accounts, Haryana Telecom Circle, liability of the appellants as calculated by them in terms of Rule 33 and 37 of CCS (Pension) Rules, 1972 read with Rule 6 (1)(3) of Appendix XI of Pension Rules is only Rs.11,037/- and not Rs.1,61,990/- as has been claimed by PSPCL. In LPA Nos. 1556 and 1559 of 2023, liability of appellants is Rs.3,863/- and Rs.5795/-, respectively, instead of Rs.6,96,693/- and Rs.9,82,135/- as claimed. It is, thus, prayed that these appeals be allowed.

9. Learned senior counsel for respondent-PSPCL refutes the arguments as raised on behalf of appellants while submitting that it is not open to present appellants to raise the pleas as above at this stage. At the outset, it is submitted that it is only the Department of Telecommunication which has challenged the impugned order dated 17.01.2020. Other Departments/ Institutions of Government of India have not challenged said decision and have duly deposited the proportionate share as calculated and intimated to them. Moreover, the appeals have been filed after an inordinate delay of 592 days, for which there is no explanation, leave alone a reasonable or plausible one. Notwithstanding the same, it is submitted that in the earlier round of litigation, no such pleas had been raised by the appellants whereas at this stage an absolutely illogical and impermissible stand is being taken by appellants inasmuch as they even seek to be absolved of any liability to deposit their proportionate share by taking shelter of instructions dated 21.04.1980 whereby Union of India has purportedly withdrawn from any kind of liability qua the proportionate share as is in question in the present proceedings. Reference is made to the earlier decisions, including decision dated 17.10.2012 in LPA-169-2012, titled '**Punjab State Electricity Board Vs. State of Punjab and others**' in which present appellants were duly arrayed as parties. There is a specific

reference to letter dated 31.03.1982 in respect to proportional liability to be discharged. Relevant portion of decision dated 17.10.2012 in LPA-169-2012 reads as under:-

> " It is relevant to notice that there were many cases where employees who had rendered temporary service under the State Government were retrenched but later on had secured employment under the Central Government wherefrom eventually they had retired. There were also cases where employees who had rendered temporary service under the Central Government had secured employment under the State Government and were claiming pensionary benefits from the State Government wherefrom eventually they had retired. Therefore, the question of allocation of pensionary liability in respect of temporary service rendered under the Govt. of India and State Governments was considered by the Central Government. The Central Government consulted the State Governments and it was decided that as proportionate pensionary liability in respect of temporary service rendered under the Central Government or the State Governments to the extent of such service could have qualified for grant of pension under the Rules of the respective Government, will be shared by the governments concerned on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. This decision was reflected in letter dated March 31, 1982 addressed by the Under Secretary to Govt. of India to the Secretary to Government of all the States Finance Department (except Government of Jammu and Kashmir and Nagaland). The abovementioned policy decision taken by the Central Government was considered by the finance Department of Government of Punjab. It was decided by the Government of Punjab that proportionate pensionary liability in respect of temporary service rendered under the Central Government/State Government to the

> extent such service could have qualified for grant pension under the rules of respective Government will be shared by the Government concerned on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Govt. and the State Government for grant of pension by the Government from where they eventually retire. This policy decision taken by the Government of Punjab is reflected in a letter dated May 20, 1982 addressed to all the Heads of Departments, Registrar, Punjab and Haryana High Court, Commissioner of Divisions, District and Sessions Judge and Deputy Commissioners in the State. The abovementioned policy decisions taken by the Central Government and the Government of Punjab were taken into consideration by the Board which issued a Memo dated November 25, 1985 with reference to the subject of allocation of pensionary liability in respect of temporary service rendered in the Government of India and the State Government and adopted the policy decision reflected in the letter dated May 20, 1982 of the Government of Punjab, with effect from March 31, 1982 as per the instructions and conditions stipulated in the said letter. This is quite evident from Memo No. 257861/8761/REG.6/ V.5 dated November 25, 1985 issued by the under Secretary/P&R/ for Secretary, PSEB, Patiala."

10. It is further submitted that vide order dated14.02.2014 (P-8), SLP(s) No.12028 of 2009 and others filed by UOI and another, challenging the order in LPA-169-2012 was dismissed. It is also pointed out by learned counsel for respondent-PSPCL that circular dated 28.11.1990 was duly withdrawn on 25.11.1993 as it relates to inter-governmental transactions/relations and not to the Board/Government (Central/State) transaction/relation. Thus, instructions dated 07.02.1986 which are with regard to employees of Central Government and Central Autonomous Bodies seeking absorption in autonomous bodies

under the State Government and vice-a-versa remain untouched. Proportionate liability recalculated in terms of impugned order dated 17.01.2020 was duly intimated to appellants who are unnecessarily refusing to release the same. Learned counsel for PSPCL submits that entire amount due to the employees has since been released by PSPCL. In the given factual matrix, it is submitted that present appeals be dismissed being devoid of any merit.

11. We have heard learned counsel for parties and have carefully gone through the files/record with their able assistance.

12. At the outset, it is to be noted that there is considerable delay of 592 days in filing all these appeals. Reasons, as mentioned in application, do not offer plausible or reasonable explanation for the delay. It is movement of file, preparation of drafts etc. which has been mentioned in application which does not offer reasonable explanation for considerable delay in filing of appeals. Though present appeals may be dismissed on the ground of delay itself, we have proceeded to hear learned counsel for appellants on merits of the matter, finding the said course to be just and expedient.

13. History of litigation as has been detailed in foregoing paras and noted in great detail in impugned order dated 17.01.2020 is a matter of record and not in dispute. It is further to be noted that though in the written statement the appellants have taken a stand that they need to be absolved of any liability whatsoever in terms of certain instructions, at the time of arguments it was stated before us that it is applicability of instructions dated 07.02.1986/ 14.05.1986 and calculations carried out by respondent - PSPCL under the said instructions qua which appellants have a grievance. Appellants, it is contended, are liable to pay proportionate share as calculated by them in accordance with

Rule 33 and 37 of CCS (Pension) Rules, 1972 read with Rule 6 (1)(3) of Appendix XI of Pension Rules.

14. We have carefully perused the orders passed in earlier litigation in which appellants were admittedly arrayed as party. Learned counsel for appellants was unable to point out any such stand as raised in present proceedings (Appeal and Writ petitions) having been taken in prior rounds of litigation. It is relevant to note that perusal of impugned order dated 17.01.2020 reveals that appellants even before writ Court had infact accepted the liability to be calculated in view of instructions dated 14.05.1986. This is apparent from a bare perusal of following paras of impugned order dated 17.01.2020:-

> " Learned counsel for the petitioner on instructions from Er. Kanwaljit Singh, Joint Secretary/Services-3, Punjab Power Corporation Limited, Patiala, who is present in Court, states that the computation of the share of the Central Government or its institutions, reimbursement of which is being claimed in these writ petitions, has not been calculated on prorate but has been calculated keeping in view the total length of service, which an employee has rendered with the the Central Government or its Institutions.
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> Learned counsel for the petitioner very fairly admits that keeping in view 1986 instructions, the Central Government or its institution are liable for the prorata pension reimbursement keeping in view the total length of service, which an employee had rendered in total with the Central Government or its Institutions and the petitioner-Corporation. Learned counsel for the petitioner after seeking instructions from the officers of the Corporation, states that the Corporation will re-calculate the share of the Central Government or its Institutions, as the case may be, where the employees have discharged duties prior to the joining the Corporation, and thereafter a demand will again be raised by calculating their share keeping in view the instructions dated 14.05.1986 as reproduced above.

While re-calculating the proportionate share, which will be informed to the Central Government or its Institutions, the Corporation will provide details of the period for which the same has been calculated, so that the same could be verified by the Central Government or its Agencies.

Learned counsel for the respondents states that keeping in view the statement made by the learned counsel for the petitioner, their grievance with regard to the claim of reimbursement, which was raised, stands satisfied. The prorata share, which the Government of India or its Institutions are liable to pay under Rules read with the order passed by this Court in ***Ramesh Chander Mahajan's*** case (*supra*) as already reproduced hereinbefore, for which claim will now be raised by the Corporation after re-calculation, will be released within a period of four months after the fresh claim of reimbursement is raised by the Corporation."

15. It is further not in dispute that other Departments/agencies of the Central Government have released proportional share as calculated in terms of instructions dated 14.05.1986 and intimated to them by PSPCL. Therefore, insistence by present appellants in not releasing the amount as due which it is admitted has already been released to the employees, is unjustified and not substantiated by the documents on record.

16. Learned counsel for appellants is unable to point out any illegality infirmity or perversity in impugned order dated 17.01.2020 which calls for interference by this Court.

17. No other argument has been raised.

18. Keeping in view the facts and circumstances as above, all appeals are dismissed being devoid of any merit.

19. As the matter has been considered and decided on merits, adjudication upon application(s) seeking condonation of delay of 592 days in filing the appeals, is rendered academic. Application(s) are disposed of accordingly.

20. Pending application(s), if any, stand(s) disposed of as well.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

September 12, 2024
Rts

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