



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

RSA-1998-2024 (O&M)
Date of decision : 23.08.2024

Punjab State Power Corporation Limited and another.... Appellants

versus

Avtar Singh Pandher Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Jatinder Singh Gill, Advocate
for the appellants.

PANKAJ JAIN, J. (Oral)

1. Defendants are in appeal aggrieved of the judgment and decree passed by the Courts below, whereby the suit filed by the plaintiff seeking decree of declaration and mandatory injunctions stands decreed.
2. Plaintiff filed suit seeking decree of declaration to the effect that the action of defendant-corporation in not granting him promotional increment alongwith routine increment, is illegal, arbitrary, null and void and without jurisdiction. Plaintiff further sought decree of mandatory injunction for directing defendants to grant him promotional increment alongwith other increments w.e.f. 01.12.2018.
3. Plaintiff joined services of the Punjab State Electricity Board on 02.12.1988 as Lineman. Punjab State Electricity Board was later on corporatised and came into being as Punjab State Power Corporation Ltd. i.e. the Appellant. Plaintiff got promoted as J.E. on 27.06.2018. It was first promotion earned by him. The plaintiff was



granted 23 years advance promotion increment w.e.f. 01.10.2018, as he was not granted 03 regular promotions upto 01.10.2018. On being promoted as J.E, the plaintiff exercised his option under Regulation 11(4) of Finance Circular No.15/09 and opted for grant of promotional increment alongwith routine increment payable to him on 01.12.2018. Plaintiff was granted his routine increment on 01.12.2018, but promotional increment against his promotion as J.E. was withheld by the defendants on the ground that promotional increment needs to be adjusted against 23 years advance promotional increment which was already granted to him on 01.10.2018. Plaintiff claims that as per circular No.20/18 and 17/90, 23 years advance promotional benefit is to be absorbed/adjusted in next regular promotion and cannot be denied in advance promotional benefit which was granted prior to grant of 23 years advance promotional benefit.

4. Suit was contested by the defendants pleading that as per Finance Circular No.53/2011 and that too of 20/2018, 23 years advanced promotional increment is to be absorbed/adjusted in next regular promotion. Plaintiff was given 23 years promotional increment on 01.10.2018. However, he opted to get promotional increment qua promotion dated 27.06.2018 on 01.12.2018 and thus, the same has to be adjusted in the promotional increment dated 01.12.2018.

5. Suit filed by the plaintiff was put to trial framing following issues:-

“1. Whether the plaintiff is entitled for declaration as prayed for? OPP

2. Whether plaintiff is entitled for mandatory injunction as prayed for?OPP



3. *Whether the suit is not maintainable in the present form?OPD*

4. *Whether the plaintiff has got no cause of action and locus standi to file the present suit?OPD*

5. *Whether the court has got no jurisdiction to entertain and try the present suit?OPD*

6. *Relief.”*

6. Courts below have decreed the suit filed by the plaintiff. Counsel for the appellant while assailing the impugned judgment and decree passed by the Courts below, submits that as per Finance Circulars, the employee is entitled for 01 increment after 23 years which is in nature of APC but the same has to be absorbed in the next regular promotion. Since promotional increment of the plaintiff was due on 01.12.2018, thus 23 years advance promotional increment given on 01.10.2018 has been rightly adjusted against promotional increment on 01.12.2108. He submits that the Courts below erred in decreeing the suit filed by the plaintiff.

7. I have heard counsel for the appellants and have carefully gone through the records of the case.

8. Grant of Promotional/Devised Promotional Scales or Advance Promotional Increment to the PSPCL employees from 15.10.2009 onward is governed by Finance Circular No.53/2011. The conditions for advance promotional increment on completion of 23 years as per the said circular read as under:-

“CONDITIONS FOR ADVANCE PROMOTIONAL INCREMENT ON COMPLETION OF 23 YEARS SERVICE.

i) He/she has the avenue of three promotions but has not earned three regular promotions in his/her regular service



from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.

ii) He/she has not earned third promotion in his/her regular service between 16th and 23rd years of service and is eligible for 3rd promotion irrespective of the pay limit.

iii) He/she has not been placed in a scale which is higher than the scale of his/her next higher post.

iv) The increment(s) are in the nature of advance promotional benefits to be absorbed in the next regular promotion.

v) Those who forego promotion shall not be entitled for this benefit.”

9. Counsel for the appellants does not dispute that the plaintiff being compliant with the aforesaid conditions was eligible for the said career progression increment and the same was granted to him on 01.10.2018. He also does not dispute that the plaintiff had already earned his first promotion as Junior Engineer prior thereto on 27.06.2018. Clause 11 of the Finance Circular No.15/2009 dated 15.10.2009 called as ‘The Punjab State Electricity Board (Revised Pay) Regulations, 2009’, deals with fixation of pay on promotion. The plaintiff exercised his option in terms of Section 11(4) and opted to get promotional increment with routine increment which was due on 01.12.2018. Exercise of the said option in law has no effect of making the regulation promotion earned by the plaintiff prior to date of grant of ACP. The next regular promotion for the purpose of absorption of the 23 years advance promotional increment will be the regular promotion earned by him after 01.10.2018. Merely for the reason that the plaintiff opted to get his pay fixed qua promotional increment from 01.12.2018 when his regular increment was due, the promotion earned by him does



not get postponed. For all intents and purposes, date of his promotion as Junior Engineer will remain 27.06.2018. The 23 years APC granted to him as per his entitlement shall get absorbed in the regular promotion earned by him after 01.10.2018 i.e. after he was granted 23 years ACP benefit.

10. Any other interpretation of the circulars will be arbitrary and illegal.

11. In view of above, this Court finds that the Courts below have rightly decreed the suit filed by the plaintiff. Resultantly, the present appeal is ordered to be dismissed.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

23.08.2024

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No