



246

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

CWP-13670-2021

Date of decision: 04.11.2025

Narinder Singh

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Pankaj Sharma, Advocate
for the petitioner.Mr. Dhruv Walia, Advocate
for respondents No.1 to 5.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to re-fix the salary and pension of the petitioner from the date of retirement i.e. 30.06.2018.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was issued a charge sheet on 19.08.2010 (Annexure P-2) along with summary of charges available on record. The petitioner submitted his reply (Annexure P-3). Thereafter, another charge sheet was issued to other employees connected with the alleged misconduct on 06.06.2012. The disciplinary proceedings kept pending for indefinite period. The delay in conclusion of the disciplinary proceedings is not attributable to the petitioner. Ultimately, the punishment order was passed on 29.09.2016 (Annexure P-5) more than six years after issuance of the charge sheet on 19.08.2010. As such,



CWP-13670-2021

-2-

the case of the petitioner is squarely covered by the judgment of the Hon'ble Supreme Court in 'Prem Nath Bali Vs. Registrar, High Court of Delhi and another' 2016(1) SCT 603. He further relies upon the judgment of the Division Bench of this Court passed in 'Surjit Singh Azad Vs. State of Punjab and others' 1996(1) SLR 406 (P&H) and submits that the case of the petitioner is squarely covered by **Prem Nath Bali's case (supra)**. The issue involved in the instant petition is identical to the one authoritatively decided by the Division Bench of this Court in **Surjit Singh Azad's case (supra)** awarding the punishment after a delay of six years and making it effective from 30.06.2018 at the time of the retirement of the petitioner has caused great prejudice to the petitioner as delay in concluding the disciplinary proceedings and making the order effective from the date of retirement has effected the pensionary benefits of the petitioner.

3. Per contra, learned counsel for the respondents submits that on 14.06.2019 (Annexure R-2), the punishment order dated 29.09.2016 (Annexure P-5) was modified and it was made effective from the date of retirement of the petitioner and also deduction of Rs.73,905/- from the pensionary benefits of the petitioner was ordered. He further relies upon the order passed by this Court in CWP No.1398 of 2010 dated 24.05.2022 in which the petitioner has made a statement that the petitioner not challenging the recovery of Rs.73,505/- imposed on 14.06.2019 (Annexure R-2). However, he is not able to controvert the judgment passed by the Division Bench in **Surjit Singh Azad's case (supra)** since the writ petitions are similar to the facts of the case.



4. He further relies upon the judgment of the Full Bench passed in 'High Court of Punjab and Haryana, Chandigarh Vs. Jaswant Singh' 2019(4) SCT 292, in which it was held that the judgment in 'State of Punjab Vs. Major Singh Gill' 1994(1) SCT 811 holding that the punishment imposed in departmental proceedings 'would relate back to the period when the alleged offence/misconduct was committed or in any case when the same was detected' does not lay down the correct law.

5. In rebuttal, learned counsel for the petitioner submits that the said judgment is not applied on the facts and circumstances of the present case. It is clearly distinguishable and the judgment was passed in relation to entitlement of the promotion by relying upon the judgment of the Hon'ble Supreme Court in 'Union of India Vs. K.V. Jankiraman' 1991 (3) SCT 317 which held as under:-

'...34. In this case, the respondent-employee's case was considered for promotion by the DPC in August 1982. However, the result was kept in a sealed cover in view of the pending disciplinary proceedings against him. According to the employee, on October 11, 1985 the disciplinary proceedings ended in complete exoneration. Thereafter, a DPC was again constituted in March 1986 which, after consideration of the employee's case, recommended him for promotion w.e.f. July 26, 1986. This was obviously contrary even to the instructions contained in the Memorandum. He was entitled to promotion from the date his immediate junior was promoted in or after August 1982 if he was in August 1982 found fit for promotion by the DPC. The Tribunal has, therefore, rightly directed the appellant to open the sealed cover and if the DPC in 1982 had found him fit for promotion, to give him the promotion from the date on which his immediate junior was promoted. However, while doing so, the Tribunal has also directed arrears of salary to be paid for intervening period along with all consequential benefits. Since we have held disagreeing with the decision of the Full Bench of the Tribunal that the benefit of the arrears of salary will not flow automatically but



will depend upon the circumstances in each case, we modify the said order to the extent it directs the payment of arrears of salary, and direct the appellate authority to consider whether the employee in the circumstances of the case was entitled to any arrears of salary and to what extent. The authority will, of course, give reasons for denial of the whole or part of the arrears of salary. The appeal is, therefore, allowed partly with no order as to costs.

35. In this case the respondent-employee was not recommended for promotion by the DPC in its meeting held on February 1, 1988. Instead, the DPC had kept the results in a sealed cover because of the pending disciplinary proceedings. Admittedly, no charge-memo was served on the employee till the date the DPC met on February 1, 1988. It was issued only on March 2, 1989. The Tribunal has, therefore, rightly directed the authorities to open the sealed cover. We are, however, unable to understand the direction of the Tribunal to convene a Review DPC for considering the employee's case as on February 1, 1988. If the DPC had considered the case of the employee on February 1, 1988 and withheld the result because of the pending disciplinary proceedings, the proper direction would have been to ask the appellant authority to open the sealed cover and if the employee was found fit for promotion, to direct the authority to promote him from the date on which his immediate junior was promoted as a result of the recommendation of the DPC on February 1, 1988. In case he is so found fit, he would be entitled to the benefits of seniority etc. on a notional basis. However, whether he would be entitled to the arrears of salary for the intervening period and to what extent will have to be decided by the appellate authority in the light of what we have stated above. In case the authority denies to the employee the salary in full or in part, it will, of course, record its reasons for doing so. The appeal is, therefore, allowed partly as above with no order as to costs.

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48. The Tribunal has found fault with the authorities on two grounds. The Tribunal has observed that although when the DPC met in June 1988, the employee was already served with a charge-sheet on February 22, 1988 and, therefore, the sealed cover procedure could not be faulted, since admittedly his juniors were given promotion with retrospective effect from July 30, 1986, the DPC should not have excluded the respondent's name from



consideration when it met on June 3, 1988. The second fault which the Tribunal has found is that since the penalty of stoppage of increment was imposed at the end of the disciplinary-proceedings, it was not open for the authorities to deny the respondent his promotion to the Selection Grade as that amounted to double penalty. Having taken this view, the Tribunal has directed that a Review DPC should consider the respondent's case for promotion w.e.f. July 1986 when his juniors were given promotion taking into account his performance and confidential records up to 1986. We are afraid the Tribunal has taken an erroneous view of the matter. Admittedly, the DPC met in June 1988 when the employee was already served with the charge-sheet on February 22" 1988. The charge-sheet was for misconduct for the period between 1982 and 1985. Admittedly further, the employee was punished by an order of August 19, 1988 and his one increment was withheld. Although, therefore, the promotions to his juniors were given with retrospective effect from July 30, 1986, the denial of promotion to the employee was not unjustified. The DPC had for the first time met on June 3, 1988 for considering promotion to the Selection Grade. It is in this meeting that his juniors were given Selection Grade with retrospective effect from July 30, 1986, and the sealed cover procedure was adopted in his case. If no disciplinary proceedings were pending against him and if he was otherwise selected by the DPC he would have got the Selection Grade w.e.f. July 30, 1986, but in that case the disciplinary proceedings against him for his misconduct for the earlier period, viz., between 1982 and 1985 would have been meaningless. If the Tribunal's finding is accepted it would mean that by giving him the Selection Grade w.e.f. July 30, 1986 he would stand rewarded notwithstanding his misconduct for the earlier period for which disciplinary proceedings were pending at the time of the meeting of the DPC and for which again he was visited with a penalty. We therefore, allow the appeal and set aside the finding of the Tribunal. There will, however, be no order as to costs...'

6. Having heard learned counsel for the parties and on perusal of the record of the case, it transpires that the charge sheet was issued on 19.08.2010 and punishment order was passed after six years on 29.09.2016 which is made effective from 30.06.2018 from the date of retirement of the petitioner causing



prejudice to the pensionary benefits of the petitioner. The controversy involved in the present petition is squarely covered by the judgment of the Division Bench in ***Surjit Singh Azad's case (supra)***, which held the following:-

'...4. The principal contention raised by Mr. Randhawa, learned counsel appearing on behalf of the petitioner is that the order of punishment of stoppage of one increment has adversely affected his (Petitioner) pensionary benefits. According to the learned counsel, the charge of misconduct relates to the year 1984 and 1985 and the punishment was awarded on 10.2.1992 after a period of 8 years. The petitioner has now retired from service on 30.6.1993. The order of punishment of stoppage of one increment is dated 10.2.1992 but came into force with effect from 1.1.1993. Since the petitioner has retired on 30.6.1993, this punishment is bound to affect his pensionary benefits throughout his life. It is in these circumstances, learned counsel urged that the said punishment be given effect from earlier date so that petitioner's pensionary benefits are not affected.

5. In our opinion, having regard to the nature of misconduct involved in this case and in the interest of justice, we modify the order of punishment dated 10.2.1992 which has come into force from 1.1.1993 to the period in which the petitioner has submitted his reply to the charge-sheet. If the authorities had disposed of the petitioner's reply earlier, probably this situation would not have arisen. In the facts and circumstances of the case, we direct the respondents to give effect to the punishment order w.e.f. 1.1.1991 instead of 1.1.1993.

6. The respondents are directed to accordingly fix the pension of the petitioner. The gratuity amount which is held by the respondents to be released within three months from today or pass an appropriate order in circumstances of the case. Writ petition to stand disposed of in the above terms.'



CWP-13670-2021

-7-

7. In view of the above, the present writ petition is allowed and the respondents are directed to fix the pension of the petitioner in terms of the judgment of the Division Bench in *Surjit Singh Azad’s case (supra)*.

(HARPREET SINGH BRAR)
JUDGE

04.11.2025
Neha

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