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208 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-1840-2020

Date of decision: 03.02.2026

MATA DEVI (DECEASED) THROUGH LRSPetitioner
Versus
THE PUNJAB STATE POWER CORPORATION LTD AND
OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Alok Mittal, Advocate
for the respondents.

HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *Certiorari* for quashing the impugned office order No.1044/CE dated 11.05.2018 (Annexure P-3) passed by respondent No.2 after the retirement of late husband of the petitioner on 31.03.2018, wrongly and illegally withdrawing the 9 years First Time Bound Higher Pay Scale granted to the deceased with effect from 07.08.2007 without even issuing any show cause notice, due to forgoing of promotion offered in the year 2013, which is violative of instructions dated 23.04.1990 (Annexure P-2) issued by respondent No.1 as well as judgment of this Court in the case of ***Rattan Chand Vs. PSEB*** in CWP-2587-2009 decided on 12.08.2010 (Annexure P-7) which has attained finality and various other subsequent identical cases. A further prayer is made for quashing the consequential re-fixation/reduction of pay and also the recovery of Rs.5,05,027/- from the retiral benefits of Late Shiv Mangal husband of the petitioner without any



show cause notice. Further the petitioner seeks quashing of impugned letter dated 08.06.2018 (Annexure P-4) written by respondent No.2 to respondent No.3 and letter dated 19.06.2018 (Annexure P-5) obtained from the husband of the petitioner under pressure and declaring the said letters as null and void. The petitioner also prays for directions to the respondents to restore the benefit of the said 9 years pay scale in the original pay of the deceased and to refund the amount recovered with interest @ 12 % per annum from the date of recovery till the date of actual payment, and thereafter, to re-fix the pay and pensionary benefits of the deceased as well as family pension payable to the petitioner and to release the resultant arrears with interest @ 12 % per annum from the due date till the date of actual payment.

2. Learned counsel for the petitioner *inter alia* contends that after the retirement of the late husband of the petitioner, the respondent-Corporation passed the impugned order dated 11.05.2018 (Annexure P-3) and re-fixed his salary by withdrawing the benefits of the nine years First Time Bound Higher Pay Scale. Further, the recovery of the excess amount of Rs.5,05,027/- was also illegally ordered from the retiral benefits of her late husband.

3. Learned counsel for the petitioner further refers to the principle of law laid down by Hon'ble Apex Court in ***State of Punjab Vs. Rafiq Masih, 2015(1) SCT 195*** to submit that recovery cannot be effected from retired employee without any allegation of misrepresentation. He further refers to the judgment rendered by this Court in CWP-2587-2009 titled as ***Rattan Chand Vs. Punjab State Electricity Board and others***



decided on 12.08.2010 (Annexure P-7) which was also followed in ***Pramod Kumar Pathak Vs. Punjab State Electricity Board, Head Office, Patiala through its Secretary and others*** in CWP-6621-2007 decided on 25.05.2011 (Annexure P-8) to buttress his case.

4. *Per contra*, learned counsel for the respondents submits that the claim of petitioner is required to be rejected in view of the undertaking given by her husband, the deceased employee of the respondent-corporation whereby he had agreed to the recovery, as indicated by Annexure P-5, wherein he has allowed for the same to be effected from his leave encashment, LTC on his personal savings, if necessary.

5. I have heard learned counsel for the parties and perused the record with their able assistance. It transpires that the deceased employee was granted First Time Bound Higher Pay Scale w.e.f. 07.08.2007, whereas he was offered a promotion much later vide office letter dated 02.04.2013. At the time of grant of the First Time Bound Higher Pay Scale, the deceased employee was not offered any promotion that he had foregone. Therefore, the respondent-Corporation erred in withdrawing benefits of the same vide impugned order dated 11.05.2018 (Annexure P-3), in terms of the principle of law as settled by this Court in ***Rattan Chand (supra)*** which reads as under:-

“(8) There is no room to doubt from the plain language of the Circular that if an employee is offered 'promotion' and he refuses to accept and foregoes the same, in that event, the employee is not entitled for the promotional pay scale on completion of 9/16 years of service. Point No.6 (reproduced above) of the subject Circular is absolutely consistent and in conformity with the Board's policy



decision dated 23.04.1990 whereby time-bound promotional scales were decided to be granted to those employees who despite completion of 9 or 16 years or service were stagnated without any promotion. When an employee gets promotion as per his seniority/merit and/or eligibility, he cannot be said to be stagnated and obviously would not be entitled to the time-bound promotional scale. Conversely, an eligible employee cannot be denied the time bound promotional scale even after completion of 9 or 16 years of service merely on the assumption that he was likely to get promotion in near future.

(9) In the case in hand, the 1st and 2nd time-bound promotional scales were granted to the petitioner on 11.10.1990 and 18.06.1993, respectively. There is indeed no denial to the fact that the petitioner got no offer for promotion as Lineman before 18th June, 1993. As a matter of fact the first ever promotion offered to the petitioner was on 27th December, 2001 only, which he declined to accept may be due to the fact that he was nearing retirement and was not willing to shift to a new place of posting.

(10) The clarificatory Circular dated 26.07.1990 (Annexure R3/1) nowhere provides nor it can lead to such absurd consequences that a promotion offered after 16 years of service would take away the service benefit given to an employee on completion of 9 years' service. Since the petitioner never refused to accept the promotion before he was granted the time-bound promotional pay scales on completion of 9/16 years of service, the subsequent offer for such promotion and that too at the fag end of his career, cannot take away the time bound promotional scales which were rightly granted to him being a stagnated employee.

(11) The impugned action of the respondents deserves to



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be struck down also being violative of the principles of natural justice. The withdrawal of the promotional pay scales has far-reaching civil consequences including reduction in the petitioner's pension and other retiral dues. Unfortunately, the respondents have acted with such a closed mind that they did not deem it proper to hear the petitioner before passing the order under challenge and that too at the time of his farewell on retirement."

6. Further, this Court in ***Ranjit Singh Vs State of Punjab*** in CWP-28761-2025 decided on 25.09.2025 has categorically held that an employee cannot be deprived of his legal rights in lieu of an undertaking obtained from him/her. Thus, the undertaking (Annexure P-5) obtained from the deceased employee would not aid the case of the respondents.

7. In view of the discussion above, the present petition is allowed. Consequently, order dated 11.05.2018 (Annexure P-8) is set aside and the respondents/competent authority are directed to restore the said benefit of the 9 years First Time Bound Higher Pay Scale and release all consequential monetary benefits of the same to the petitioner @ 6% per annum to be calculated from 11.05.2018 till its actual realization. The needful shall be done within a period of 03 months of date of receipt of a certified copy of this order.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

03.02.2026
monika

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No