



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

CWP-3482-2021

Date of decision: 19.02.2026

Suresh Kumar Jain

....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Vidyut Sadan,
Hisar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravinder Phogat, Advocate
for the petitioner.

Mr. Satyam Tandon, Advocate and
Mr. Akshay, Advocate
for respondents No.1 to 6.

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 *certiorari* for quashing the order/letter dated 10.04.2017 (Annexure P-3) issued by respondent No.6. Further, for issuance of a writ in the nature of *mandamus* directing the respondents to refund the arrears amount deducted from the pension of the petitioner on the false pretext of re-fixation of modified grade pay, as the same was kept in abeyance by the respondent-Nigam, with interest at the commercial rate till actual realization. Further, the arrears, if any, be calculated and paid to the petitioner along with interest in view of order dated 10.01.2018 passed by this Court in **CWP No.11364 of 2014** (Annexure P-8). It is further prayed that pay and pension of the petitioner be re-fixed properly and any wrongful deduction be rectified and arrears, if any, be paid to the petitioner along with interest after re-fixation of the pay and pension.



2. Learned counsel for the petitioner *inter alia* contends that the petitioner retired from the post of Deputy Superintendent, Operation Division, with the respondent-Nigam. The petitioner retired on 31.01.2016, however, vide letter 10.04.2017, he was informed that his pay was reduced in view of office order no.454 dated 18.12.2013 but the same was not pointed resulting in wrong fixation of pay and pension. The petitioner was also directed to deposit Rs.66,392/- with the respondent-Nigam within 15 days, failing which recovery will be initiated from his pension.

3. Learned counsel further submits that the Board of Directors in its meeting dated 25.04.2013 resolved to change the nomenclature/designation and pay scales of certain posts of the Field Cadre ministerial/Clerk Staff, a notification dated 01.05.2013 (Annexure P-1) was also issued by the respondent-Nigam in this regard. However, vide order dated 18.12.2013, issued by Chief Engineer with the approval of respondent No.2-Director Operations, the same was kept in abeyance in view of the observations made by the Haryana Bureau of Public Enterprises. It was ordered that the old promotion channel and the old pay scales will remain in practice till finality is reached. The impugned action take vide order dated 18.12.2013 (Annexure P-2) was considered by this Court in **CWP No.11364 of 2014** titled as '***Om Parkash Panwar and others Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and others***' decided on 10.01.2018 (Annexure P-8) and it was concluded that order dated 18.12.2013 was passed without due authority of law. Further, the petitioners therein were granted arrears with interest.

4. He further submits that the respondent-Nigam is an autonomous body and once the Board of Directors has approved an action, there is no



obligation upon it to obtain approval of the Haryana Bureau of Public Enterprises as well. Reliance in this regard is placed upon the judgment rendered by this Court in **CWP No.9262 of 2012** titled ***Pawan Kumar and others vs. UHBVNL and others*** decided on 12.09.2013. He points out that both the LPA preferred against the same before this Court as well as the SLP filed before the Hon'ble Supreme Court, stand dismissed. Respondent No.2-Director Operations cannot review, modify or order that the decision of the Board of Directors or keep it in abeyance of his own accord. Moreover, in view of the judgment rendered by the Hon'ble Supreme Court in ***State of Punjab v. Rafiq Masih (2015) 4 SCC 334***, recovery post-retirement is impermissible in the absence of any allegation of misrepresentation or fraud on the part of the retired employee.

5. *Per contra*, learned counsel for the respondent-Nigam submits that the impugned order (Annexure P-3) was passed on 10.04.2017 whereas, a representation was filed by the petitioner, for the first time, on 24.08.2020. Subsequently, the present writ petition was filed on 04.02.2021, after a considerable delay. He further submits that the decision taken by the Board of Directors, as notified vide notification dated 01.05.2013 was withdrawn by the Board itself 13.08.2015. However, he could not controvert the fact that order dated 18.12.2013 (Annexure P-2), whereby respondent No.2-Director Operations kept the decision of the Board of Directors in abeyance, was set aside by this Court in ***Om Parkash Panwar's case (supra)***.

6. I have heard the learned counsel for the parties and upon perusal of the record, it transpires that the Board of Directors of the respondent-Nigam took a conscious decision on 24.04.2013 to change the nomenclature and pay



scales of the relevant posts, and the same was duly communicated vide notification dated 01.05.2013 (Annexure P-1). However, respondent No.2-Director Operations kept the same in abeyance vide order dated 18.12.2013 (Annexure P-2) in view of the issues raised by the Haryana Bureau of Public Enterprises. Significantly, the Board of Directors withdrew their resolution on 13.08.2015 but this action of respondent No.2-Directors Operations was analysed by a Coordinate Bench of this Court in ***Om Parkash Panwar's case (supra)***. Holding that a single Director did not have the jurisdiction to keep a decision, collectively taken by the Board of Directors, in abeyance. The relevant portion of the judgment in ***Om Parkash Panwar's (supra)*** is reproduced below:

“ 1. The respondent- Dakshin Haryana Bijli Vitran Nigam Ltd. issued notification dated 1st November 2013 (Annex. P-1) in exercise of powers conferred by Clause C of Section 79 of the Electricity (Supply) Act, 1948 read with Haryana Electricity Reforms Act, 1997 and other enabling powers changing the nomenclature/designation and pay scales of a number of posts including the posts of the Commercial Assistant and Circle Superintendent into Assistant (Field) and Superintendent (Field) in the same pay scale, but with enhanced grade pay i.e. from ₹3200/- to ₹ 3600/- and ₹4200/- to ₹4600/-. It appears that the matter was sent by the Board to the Haryana Bureau of Public Enterprises to get advice from its Finance Department regarding change of nomenclature/designation and allowing pay scale to the Field Cadre (Ministerial) at par with Head Office Cadre (Ministerial) Employees.

2. The decision on change of designation of certain posts was taken by the Board of Directors of the respondent Dakshin Haryana Bijli Vitran Nigam Ltd. One fine day on 18th December, 2013, the Chief Engineer (HR & Admn.), DHBVN, Hisar passed an Office order keeping the notification in abeyance. In the interregnum, it was ordered that the old promotion channel alongwith old pay scales will remain in practice till the finalization of the matter. It was recorded in the office order dated 18th December, 2013 (Annex. P-3) that this advice issues with the approval of the



Director/OP, DHBVN, Hisar. It appears that the decision taken by the Board of Directors was kept in abeyance by one Director against a decision taken by the Board of Directors sitting in quorum. Meanwhile, the 1st petitioner was re-designated as Superintendent (Field) while the remaining petitioners were re-designated as Assistant (Field) and they continued to earn their salaries and allowances accordingly. However, the Office order dated 18th December, 2013 interrupted their higher pay and recoveries were made from them in excess of the old grade pay and the new one. The actual reduction in pay was effected in April, 2014 retrospectively.

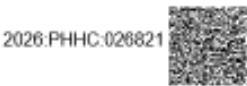
3. On 13th August, 2015 vide an office order (Annex.R-1 with the short written statement), the Notification dated 1st May, 2013 was withdrawn in toto. This decision was taken by the Board of Directors of DHBVN in its meeting held on 30th June, 2015 against agenda Item No.163.35. That would have been an end of the matter, but the Board of Directors thought fit to re-issue the Notification dated 1st May, 2013 in new form thereby re-designating the posts with some changes which did not affect the posts of Circle Assistant and Circle Superintendent re-designated as Assistant (Field) and Superintendent (Field). The grade pay of Assistant (Field) was increased from ₹ 3600 to ₹ 4000. The past was restored and the petitioners had been re-designated in terms of the Notification dated 1st May, 2013 read with the Office order dated 20th July, 2016. The Office order dated 20th July, 2016 is re-produced as under:-

“Office Order No.35/SE/Admn.

Dated: 20.7.2016

DHBVN is pleased to modify the nomenclature and pay scales of the following posts of the Field Ministerial Cadre/Clerical Staff as per approval of HBPE, Finance Department to Govt. Of Haryana vide U.O. No.20/4/2016/Asstt./HBPE(FD) dated 16.05.2016 and U.O.No.23/UHBVN/2009/Acctt./HBPE(FD) dated 13.07.2016 is as under:-

SR. No.	Existing Nomenclature & Pay Scales	Modified Nomenclature and Pay Scales Approved	Remarks
1.	LDC (5200-20200+2400 GP)	No Change	
2.	UDC (5200-20200+2900 GP)	No Change	
3.	Commercial Assistant (9300-34800+3200 GP)	Assistant (Field) (9300-34800+4200 GP)	
4.	Circle Assistant ((9300-34800+3300 GP)		



5.	Head Clerk (9300-34800+3600 GP)	Dy.Superintendent (Field) (9300-34800+4200 GP)	The Prescribed experience for promotion to the post of Dy. Supdt. (Field) will be 5 years service as Assistant (Field) and unqualified Assistants will not be promoted as Dy. Supdt.
6.	Circle Superintendent (9300-34800+4200 GP)	Superintendent (Field) (9300-34800+4600 GP)	

This issues with the approval of the Managing Director, DHBVN, Hisar.

*Sd/-SE/Administration
DHBVN, Hisar.”*

4. The short question which falls for consideration in the above circumstances is whether the recoveries made from the petitioners while they served on the re-designated posts deserve to be refunded to them since they have worked on the re-designated posts and if the principle of quantum merit would apply. The further issue is whether the petitioners can claim the pay and allowances of the pay scale and the grade pay on the redesignated posts up till 13th August, 2015 i.e. the date of withdrawal of the Notification dated 1st May, 2013.

*5. On the first question, **I have no doubt that the petitioners have a right to be refunded the money recovered from them unlawfully taking it to be excess payment above the entitlement. The orders, if any, recovering money from them are not sustainable and are quashed. The respondent-Nigam will refund the amount of recovery with interest at the rate of 6% per annum till realization.***

*6. As far as entitlement of the petitioners on the second issue is concerned, I have also no doubt that **they would be entitled to the higher grade pay w.e.f. 13th August, 2015 for the reason that the notification dated 1st May, 2013 was illegally kept in abeyance by the Office order dated 18th August, 2013 without due authority of law. A single***



Director had no jurisdiction to keep in abeyance the decision taken by the Board of Directors of the Nigam collectively. Accordingly, the arrears be calculated and paid to the petitioners together with interest at the rate of 6% per annum. All the payments be made within three months from the date of receipt of a certified copy of this order failing which, the amount in default will earn interest at the rate of 9% per annum till realization. However, the petitioners are held not entitled to the difference of higher grade pay from August, 2015 to 15th May, 2016.

7. The writ petition is partially allowed. The impugned orders are set aside and payments are directed to be made to the petitioners in terms of this order.”

7. The decision rendered by this Court in ***Om Parkash Panwar's case (supra)*** was challenged by the respondent-Nigam by filing LPA No.1024 of 2018 which was dismissed vide judgment dated 09.07.2018 (Annexure P-9).

8. In view of the admitted facts, the present civil writ petition is allowed in terms of the law laid down in ***Om Parkash Panwar's case (supra)***. The order/letter dated 10.04.2017 (Annexure P-3) issued by respondent No.6-XEN/Operations Division is hereby set aside. However, it is made clear that the petitioner would be entitled to the pay and allowances of the pay scale, and grade pay on the re-designated post till 13.08.2015 i.e. the date of the withdrawal of notification dated 01.05.2013 (Annexure P-1) by the Board of Directors, along with interest @ 6% per annum till actual realization.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

19.02.2026
Neha

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