

CM-4780-CWP-2026 in/and
CWP-16262-2024

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2026:PHHC:050284



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

**CM-4780-CWP-2026 in/and
CWP-16262-2024 (O&M)
Date of decision: 01.04.2026**

Narinder Kumar

... Applicant-petitioner

Vs.

Punjab State Power Corporation Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.K. Rattan, Advocate and
Mr. Vishal Rattan, Advocate
for the applicant-petitioner.

Mr. M.S. Longia, Advocate
for the non-applicants/respondents.

HARPREET SINGH BRAR, J. (ORAL)

CM-4780-CWP-2026

1. This application has been filed under Section 151 of the Code of Civil Procedure, 1908 seeking preponement of date of hearing from 21.07.2026 to some earlier date, on the ground that case of the applicant-petitioner is squarely covered by the judgment dated 12.02.2026 (Annexure P-29) rendered by this Court in *CWP-11499-2022* titled as *Jarnail Singh Vs. Punjab State Power Corporation Limited and others* along with one another



writ petition i.e. CWP-12240-2022.

2. Notice of the application to non-applicants/respondents.

3. Mr. M.S. Longia, Advocate, who is present in the Court, accepts notice on behalf of the non-applicants/respondents. He is not in a position to distinguish the case of the applicant-petitioner from that of the petitioner(s) in *Jarnail Singh*'s case (*supra*).

4. In view of the above, present application is allowed and date of hearing is preponed from 21.07.2026 to today. The main petition is taken up for final disposal today itself.

CWP-16262-2024

5. Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of impugned pay fixation (Annexure P-12), vide which pay of the petitioner was refixed and reduced for the period from 01.08.2003 to August, 2009 and an amount of Rs.56,348/- was recovered from the arrears payable to him and the order dated 29.09.2022 (Annexure P-18) and gratuity payment order dated 12.03.2024 (Annexure P-21), whereby also, his pay was refixed and reduced from June, 2000 to June, 2021 and amount of Rs.2,68,770/- was ordered to be recovered from the gratuity. Further, it is prayed to issue a writ in the nature of *mandamus* directing the respondents to refix the pay of the petitioner after granting/restoring promotional increments already granted as Junior Engineer (Annexure P-8) and also to grant promotional increment as AAE (Annexure P-14). It is also prayed to direct the respondents to refund the



total recovered amount of Rs.3,25,118/- along with interest @12% *per annum* in view of the judgment passed by the Full Bench of this Court in ***A.S. Randhawa Supg. Engineer (Retd.) Vs. State of Punjab, 1998 (1) SCT 34.***

6. Learned counsel for the petitioner, *inter alia*, contends that the petitioner initially joined erstwhile Punjab State Electricity Board on 10.08.1987 and retired on 31.10.2023. When the case of the petitioner was sent for grant of pension, his pay was wrongly fixed and recovery was ordered vide impugned memo dated 29.09.2022 (Annexure P-18). Thereafter, an amount of Rs.2,68,770/- was recovered from gratuity of the petitioner. Further, case of the petitioner is squarely covered by the judgments rendered by the Hon'ble Supreme Court in ***State of Punjab Vs. Rafiq Masih, 2015(1) SCT 195*** and this Court in ***Jarnail Singh's*** case (*supra*). It is further contended that the respondents imposed the recovery upon the petitioner on the basis of some audit objection. As such, any order having civil consequences without issuance of any show cause notice is not sustainable in the eyes of law. Furthermore, this Court has considered the issue regarding recovery based upon some audit objection and has categorically held that in the absence of any chargesheet or disciplinary proceedings, no recovery can be imposed upon an employee post-retirement. As such, the petitioner is entitled to the financial benefits in terms of the judgment passed by this Court in ***Jarnail Singh's*** case (*supra*) on account of working on higher post.

7. Learned counsel for the respondents-Corporation is not in a position to controvert the fact that case of the petitioner is at par and identical



to **Jarnail Singh**'s case (*supra*). However, he submits that the petitioner challenged the impugned order fixing his pay (Annexure P-12) passed on 10.08.2009, by way of filing a writ petition in the year 2024. The said order was passed after due compliance of the principles of natural justice. The delay in approaching this Court alone is sufficient to suffocate the claim raised by the petitioner in the present petition with regard to refixation of his pay.

8. I have heard learned counsel for the parties and perused the record of the case file with their able assistance.

9. It has gone uncontroverted that case of the petitioner is identical to that of **Jarnail Singh**'s case (*supra*), wherein this Court has considered the issue involved in the present petition, after going through the law laid down by the Division Bench in **Senior Superintendent of Post Offices, Karnal Division, Karnal and others Vs. Nand Kishore and another, 2019 (2) SCT 461** and made the following observations: -

“5. Admittedly, the petitioner had been working with the respondent as a Lineman since 05.03.1987 and had participated in the departmental examination bearing No.97/CRA-109, for promotion, upon being found eligible to appear therein. A perusal of the letter dated 27.03.2000 (Annexure P-4), it was stipulated that 114 candidates had been selected in the said departmental examination and that their promotion was to be effected to the post of Junior Engineer under the 22% quota. Further Annexure P-11, Office Order No.51 stipulates that 22% post for the JE-II/Electrical shall take place by promotion. Consequently, vide Office Order No. 412 dated 21.06.2000 (Annexure P-5), the petitioner was promoted to the post of



Junior Engineer. Upon such promotion, the petitioner was also granted two promotional increments in terms of para (b) of Finance Circular No. 9/91 issued by the Punjab State Electricity Board.

*6. A Division Bench of this Court in **Senior Superintendent of Post Offices, Karnal Division, Karnal and others vs. Nand Kishore and another** 2019(2) SCT 461, while relying on the judgement rendered by the **Ramkaran Kumhar v. Union of India, (Rajasthan) (DB) 2016 SCC Online Raj 5751**, SLP against which was dismissed by the Hon'ble Supreme Court in **Ramkaran Kumhar v. Union of India**, SLP(C) No. 21315 of 2016, laid down that, “...where the Rules specifically provide for promotion quota, may be to be filled in by way of limited Departmental Competitive Examination, the promotions made in such manner have to be considered as promotions....”*

*7. It is incontrovertible that the rules specifically provide for a 22% promotion quota for filling the vacancies. Thus in terms of the law laid down in **Nand Kishore (supra)**, the selected candidates under those rules would also be considered as promotees.*

8. In view of the above, this Court is unable to comprehend which rules or records indicate that the petitioner was appointed against a CRA vacancy falling within the direct recruitment quota, especially when nothing to this effect has been placed on record by the respondents. A bare perusal of the relevant documents, on the contrary, clearly demonstrates that the petitioner was recruited as a Junior Engineer under the 22% promotion quota.

9. Admittedly the respondents only rely on the audit objection which was merely based on a bona fide interpretation of the



relevant rules and records, and any expressed provision for the same has not been brought into knowledge of this court.

10. In light of the above, this Court observes that the respondents' own notifications and contemporaneous records, the letter dated 27.03.2000 (Annexure P-4) and the promotion order dated 21.06.2000 (Annexure P-5), unequivocally establish that the petitioner was appointed to the post of Junior Engineer under the 22% promotional quota reserved for existing employees. These documents leave no scope for ambiguity and clearly reflect that the petitioner's appointment was by way of promotion and not through direct recruitment.

11. It is, therefore, legally impermissible for the respondents, after the lapse of more than two decades, to arbitrarily reclassify the petitioner's valid promotion as a case of "direct recruitment" on the basis of a purported bona fide interpretation that runs contrary to their own official records. Such a belated volte-face, in the absence of any change in the governing rules or any finding of fraud or misrepresentation attributable to the petitioner, is manifestly arbitrary, unfair, and wholly devoid of any legal foundation.

*12. Further, it is trite law that once an employee is promoted and discharges the duties of a higher post, he becomes entitled to the pay scale attached to that post, unless there exists a statutory rule to the contrary. This settled principle has been authoritatively laid down by the Hon'ble Supreme Court in **Smt. P. Grover v. State of Haryana, AIR 1983 SC 1060**, and reiterated by a Three-Judge Bench of this Court in **Subhash Chander v. State of Haryana, (2012) 1 RSJ 442**.*

13. In the present case, the denial of the pay scale of Assistant Engineer/Sub Divisional Officer to the petitioner, despite his



promotion and assumption of charge with effect from 07.05.2020, is manifestly arbitrary and violative of Articles 14 and 16 of the Constitution. The petitioner is, therefore, entitled to the pay scale attached to the post on which he has been continuously discharging duties. Having availed the benefit of the petitioner's services on the higher post, the respondents cannot, in law or equity, deny him the corresponding pay scale."

10. In view of the above, present petition is disposed of in terms of the judgment rendered by this Court in **Jarnail Singh**'s case (*supra*).

11. However, it is made clear that the petitioner would not be entitled to any benefit regarding his claim raised impugning the order/pay refixation (Annexure P-12) on account of delay and laches.

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

01.04.2026
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No