
(2003) 02 P&H CK 0150
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5572 of 1987

Er. Balwinder Singh Gill

APPELLANT

Vs

The Secretary, Punjab State Electricity Board

RESPONDENT

Date of Decision : 12-02-2003

Acts Referred:

Citation : (2003) 133 PLR 695

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : Onkar Singh, for the Appellant; Rejnesh Sharma, for Somesh Ojha, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—I have heard the learned counsel for the parties at length and perused the record of the case.

2. The petitioner has filed the present writ petition challenging the order dated 22.08.1985 contained in letter No. 5570/CST/R-901. The petitioner joined the Punjab State Electricity Board as a direct recruit as A.E. Electrical on 7.7.1969. He was placed at serial No. 435 of the list of A.E.-II as on 3.2.1972. His immediate junior in the list who was placed at serial No. 436 was promoted as AEE on 29.08.1973. The claim of the petitioner for promotion was rejected on the ground that he had been given adverse remarks for the years 1970-71, 1971-72, 1972-73. In the subsequent seniority list, the petitioner has been placed at serial No. 243 in the gradation and distribution list of AEE's corrected upto 30.09.1983. The petitioner filed a representation for the first time on 19.3.1984 to the Administrative Member for expunging the aforesaid remarks. The representation of the petitioner was accepted by the Administrative Member on 22.12.1984. By letter dated 8.1.1985, the petitioner was informed that since adverse remarks had been expunged, he may apply for the retrospective promotion as AEE from the date it was due. However, before any decision could be taken for granting the seniority or retrospective promotion to the petitioner,

the Chairman of the Board withdrew the order dated 22.12.1984. The petitioner made representation against the aforesaid order on 24.02.1987 stating therein that the order dated 22.08.1985 had been passed without giving him an opportunity of hearing. He had, therefore, requested that the order dated 22.08.1985 be withdrawn and he be restored the seniority at serial No. 26 and 27 in the gradation list. He also requested for retrospective promotion to the post of AEE with effect from 29.08.1973. The representation of the petitioner was not decided, thus, he filed the present writ petition.

3. Learned counsel for the petitioner had submitted that the Chairman of the Board is not competent to review the earlier order passed by the Administrative Member. He further submitted that since the order dated 22.08.1985 has been passed without complying with rules of natural justice, the same is liable to be quashed.

4. Written statement has been filed by the respondent. It has been submitted that the matter with regard to expunging the adverse remarks which had been given to the petitioner, was considered and the Chairman of the Board on 25.02.1985, passed the following order;-

"No arguments, logic or history would be a sufficient justification for ignoring the instructions laid down by the Board for review of the C.Rs. I will neither accept the review nor the ordered consequences thereof."

5. This order was passed by the Chairman of the Board on the basis of the instructions which were applicable at the time of the consideration of representation with regard to the ACR's contained in Memo No. 142376/3426/REG-20 dated 4.8.1976. These instructions lay down that the representation should not be entertained against the ACR's unless the same is received within a period of three months from the date of the letter communicating the adverse remarks to the officer concerned. These instructions categorically provide that it is dangerous to allow officials to go on putting up representation whenever they think that the situation is favourable to them and post factor attempt to clean up confidential report files must be resisted.

6. I have considered the submissions made by the learned counsel for the parties.

7. I do not find much force in the submissions made by the learned counsel for the petitioner. Admittedly, the adverse remarks relate to the period from 1970-71, 1971-72, 1972-73. The petitioner did not raise even the slightest voice of protest against the recording of the adverse remarks till he made representation on 19.03.1984. Even in the representation, Annexure P-1, the petitioner has given no justification for the studious silence that he maintained for a period of about 11 years. He simply stated that his work had been performed according to the instructions issued by his superiors. I am of the considered opinion that the petitioner had made a representation when the Administrative Member was favourable towards him. There is no logical reason as to why the representation was made in the year 1984. The ACR's had been

recorded way back in the years 1970-71, 1971-72, 1972-73. There is no merit in the submission of the learned counsel for the petitioner to the effect that the Chairman of the Board was not competent to review the order passed by the Administrative Member. The Chairman of the Board, no doubt, is an authority higher to the Administrative Member. No rule or regulation has been placed on the record or pleaded in support of the submission that the review could only have been entertained by the entire Board and not by the Chairman of the Board. I am of the considered opinion that no injustice has been done to the petitioner.

8. In view of the above, I find no merit in the present petition and the same is hereby dismissed. No costs.