
(2014) 12 P&H CK 0147

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 244 of 2014

State of Punjab and Others

APPELLANT

Vs

Jaswinder Singh Bedi and Others

RESPONDENT

Date of Decision : 19-12-2014

Acts Referred:

Citation : (2015) 1 SCT 658

Hon'ble Judges : Satish Kumar Mittal, J;Deepak Sibal, J

Bench : Division Bench

Advocate : K.K. Gupta, Addl. A.G, Advocates for the Appellant; Ranjivan Singh, Advocates for the Respondent

Judgement

Deepak Sibal, J.—The present intra court appeal, filed under Clause X of the Letters Patent by the State of Punjab and its Officers, challenges order dated 20.05.2013 passed by a learned Single Judge of this Court allowing the writ petition bearing C.W.P. No. 16446 of 2010 filed by the respondents. Through the above referred writ petition, the respondents had approached this Court praying for quashing of the order dated 29.04.2010 (Annexure P-4) issued by the State of Punjab, vide which the claim of the respondents for grant of benefit under the Assured Career Progression (ACP) Scheme, as notified on 03.11.2006, was denied. The ground of denial was that the benefit of the said instructions could not be granted to Junior Engineers, the category to which the respondents belong as they would not be covered under the ACP Scheme. Learned counsel appearing for the State of Punjab, to deny the claim of the respondents, had submitted before the learned Single Judge that the respondents were not entitled to the benefit of the Scheme dated 03.11.2006 in the light of the circular/letter dated 01.12.2011.

2. The issue was aptly dealt with by the learned Single Judge and decided against the appellants by holding as under:-

"I have considered the submissions made by the counsel for the parties and with

their assistance have gone through the records of the case.

Perusal of the instructions dated 25.9.1998 (Annexure P-1) would show that the recommendations of the 4th Pay Commission were implemented for Assured Career Progression Scheme. There being certain anomalies in giving effect to the same, the anomalies were removed vide a notification dated 27.6.2000 (Annexure P-2) qua the pay scales of Junior Engineers. Apart from granting them the ACP, Class II status and designation as Assistant Engineer was also granted on completion of 16 years of service apart from granting them the next higher pay scale of 6400-10640 on completion of 8 years service and 7200-11320 on completion of 16 years of service in the same cadre, i.e., Junior Engineer. Perusal of the Scheme dated 3.11.2006 would show that it is altogether independent Scheme, where the Assured Career Progression Scheme was made applicable on completion of 4/9/14 years of service in a cadre. This was totally different from the earlier Scheme with regard to the period for which the benefit would be claimed as per the said Scheme. In any case, this Scheme, as per Clause-2 thereof, was made optional and all employees were given option to either continue in the existing Assured Career Progression Scheme after completion of 8/16/24/32 years service as provided under the Scheme dated 25.9.1998, which was further modified for Junior Engineers on 27.6.2000 or to opt under the 4/9/14 years Assured Career Progression Scheme. This clearly indicates that all employees had an option either to continue with the old Scheme or to opt for the new Scheme, which was now made applicable to the employees. Petitioners having opted for the said Scheme, which was published on 3.11.2006 were, therefore, entitled to the benefit under the said Scheme. That apart (sic), Junior Engineers working in the Punjab Mandi Board have already been granted the benefit of the Scheme dated 3.11.2006 and, therefore, the petitioners cannot be denied the same benefit.

Contention of the respondents that the claim of the petitioners would not be covered under the Scheme dated 3.11.2006 on the basis of the letter dated 1.12.2011 cannot sustain as the said letter is prospective in operation and in Para No. 5 thereof, it is stated that as per the benefit conferred upon the employees as per the letter dated 1.12.2011, they would not be entitled to the benefit under any other Assured Career Progression Scheme issued by the Government, which further specified that the said revised pay scale would be effective from 1.12.2011, the date of the notification. This clearly shows that the said Scheme or revised pay scales were applicable prospectively and the petitioners cannot be denied the benefit as claimed by them in the present writ petition on the basis of the letter dated 01.12.2011.

The writ petition is, therefore, allowed. Impugned order dated 29.4.2010 (Annexure P-4) is hereby quashed. Petitioners are held entitled to the benefit of the instructions dated 3.11.2006. The consequential benefits be released to the petitioners within a period of three months from the date of receipt of certified copy of this order. In case of petitioners, who have not yet opted for the

applicability of the Scheme dated 3.11.2006, must give their option within a period of one month from today and their claim be also considered and decided by the respondents as per the time stipulated here-in-above."

3. Learned counsel appearing for the State has argued that there was an earlier circular dated 25.09.1998, modified on 27.06.2000, pertaining to promotional scales covering the posts on which the respondents had been appointed, and therefore, the latter Scheme dated 03.11.2006 would not apply in their case. A perusal of the Scheme dated 03.11.2006 shows that the same was optional. This was in spite of the operation of the earlier scheme dated 25.09.1998 modified on 27.06.2000. The respondents having opted for the said Scheme dated 03.11.2006 are entitled to the benefit of the same. As per the clause (i) of the Scheme dated 03.11.2006, any benefit gained by an employee under existing Schemes, was to be adjusted under the new Scheme. Clause (i) of the Scheme dated 03.11.2006 is reproduced below:-

"(i) The benefit gained by an employee under the existing Scheme will be adjusted in the proposed Scheme."

4. In view of the above, the earlier Scheme continued till the new Scheme dated 03.11.2006 came into existence. The same was optional. If an employee would not opt to be considered under the new Scheme, he/she would continue under the old Scheme but in case, an employee like in the case of the respondents would opt under the new Scheme dated 03.11.2006, then such employee would be governed by the new Scheme and all benefits that he/she had got under the old Scheme, would be adjusted and for future purposes, the employee was to continue under the new Scheme. The respondents, having opted in the new Scheme, would be entitled to be considered for the benefits under the new Scheme. They would, of course, be bound by clause (i) of the new Scheme as reproduced above. In view of the above, we find the order passed by the learned Single Judge to be reasonable and justifiable, warranting no interference by us.

Resultantly, the present appeal is dismissed.