
(2011) 03 SHI CK 0318

In the High Court Of Himachal Pradesh

Case No : CWP-T No's. 3025 and 3026 of 2008

Surender Pal Verma

APPELLANT

Vs

H.P. State Electricity Board and Others

RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 11(16), 11(17), 11(4), 15(2)

Citation : (2011) 03 SHI CK 0318

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—Both these petitions being interconnected are taken up for disposal by a common judgment.

CWP-T No. 3025 of 2008.

2. The petition has been filed on the following prayers vide para 7(i) and (ii):

(i) That the Respondents may kindly be directed to release the prop. Increments due to the applicant on completion of 8 years and 23 years of service w.e.f. 8.2.1991 and 26.4.1995, respectively with arrears and all other consequential benefits, with interest;

(ii) That the Respondents may kindly be directed to consider the applicant for Assured Career progression Scheme i.e. award of next higher scale on completion of 8 years of service in the post of Senior Assistant with all arrears till date.

3. In reply, the Respondents have taken the following stand vide the relevant portion of para 1 of the preliminary submissions:

In context, the replying Respondents submit with utmost respect that the applicant was initially appointed as clerk and joined as such on 26.4.72. Thereafter, he was promoted as UDC (Ad hoc) w.e.f. 8.2.1983 and officiating w.e.f. 14.8.1985 and re-designated as Senior Assistant w.e.f. 9.1.1996. While

working in Electrical Sub Division, HPSEB, Barotiwala under Electrical Division, Parwanoo, the applicant was placed under suspension by the Respondent Board vide No. HC-II/confd-202/90-91-2131-36 dated 23.7.1990 vide Annexure-RA-I and later on charge sheet on this account was served upon vide Memorandum No. HC-II/confd-202/90-91-2392-96 dated 19.2.1991 (copy of which annexed at RA-II). The Inquiry Officer of Respondent Board enquired into the charges framed against the Petitioner and submitted the Inquiry Report vide his letter No. HPSEB/Sectt/Vig. Guard file/94-6025-27 dated 18.5.1994. On the report of Inquiry Officer as stated above, the Respondent Board vide order No. CEO/complaint Solan-II/94-751-54 dated 23.12.1994 imposed the penalty of withholding of one increment for one year with cumulative effect under Rule 11(IV) of CCS (CCA) Rules, 1965 which is placed on record as Annexure RA-III. It is further submitted that the applicant herein had joined as UDC w.e.f. 8.2.83 and was entitled for proficiency increment on completion of 8 years service w.e.f. 8.2.91. he was suspended vide orders dated 23.7.90 on the prima facie charges of having been involved in corrupt practice and charge sheeted on this account vide order dated 19.2.91. On the report of Inquiry Officer as stated above, the Respondent Board vide his order dated 23.12.1994 imposed the penalty of withholding of one increment for one year with cumulative effect under Rule 11(IV) of CCS (CCA) Rules, 1965. Since the penalty of withholding of one increment with cumulative effect was imposed upon the official w.e.f. 1.1.95 on conclusion of disciplinary case and as per provision existing vide Govt. of India decision No. 4 below FR-25 annexed as RA-IV, the effect for the grant of proficiency step up was to be given only after expiry of period of penalty i.e. 1.1.1996, revision of pay scales w.e.f. 1.1.96, there is no provision for the grant of proficiency step up w.e.f. 1.1.96 on wards to the category of Sr. Assistant as per copy of O/O No. 2 dated 22.5.98 and O/O No. 7 dated 1.10.2001 annexed as RA-V. Further as per provisions contained in Rule 11(16) of CCS(CCA) Rules, 1965 and further clarified vide Rule 11(17) of the said Rules annexed as RA-VI, implies withholding of all the increments admissible during that specified period and not the first increment only. The applicant herein was awarded penalty for withholding of one increment for one year with cumulative effect vide order dated 23.12.94 and his promotional increment was also due on completion of 23 years service w.e.f. 26.4.95. As such, the applicant is not entitled for any increment falling during the period of penalty.

CWP-T No. 3026 of 2008.

4. The petition has been filed on the following prayers vide para 7 (i) and (ii):

(i). That the impugned order dated 23.12.1994 (Ann-A.3) may kindly be quashed and set aside as the penalty imposed is disproportionate to the fault proved by the Inquiry Officer and which is against the various decisions of the Apex Court in this behalf.

(ii) That the Respondents may be directed to pay the arrears of the said restored increment to the applicant along with interest till date.

5. There is no reply as yet. However, with the consent of the parties, the petition is taken up for final disposal.

4. In the facts and circumstances of the case, the petitions are disposed of with a direction that subject to the Petitioners making a detailed representation supported by documents along with copy of this judgment to Respondent No. 1 within one month from today, the same shall be considered and decided by the said Respondent within three months thereafter in accordance with law by taking into consideration letters dated 22.03.1999, Annexure A-12 and 16.5.2000, Annexure A-13, with regard to grant of Promotional/Revised Promotional Scales to the employees of the Respondent board and provisions of Central Civil Services (Classification, Control and Appeal) Rules, particularly Sub-rule (2) of Rule 15, after affording an opportunity of being heard to the Petitioner, if so desired. Needless to say that consequential benefits, if any, would follow the decision on the representation. If the Petitioner is still aggrieved, he shall be at liberty to approach this Court again.

5. The petitions, so also pending CMP(s), if any, stand disposed of.