

(2019) 03 P&H CK 0267
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6069 Of 2017

Vinod Kumar

APPELLANT

Vs

Punjab State Power Corporation Limited (PSPCL) And Others

RESPONDENT

Date of Decision : 26-03-2019

Acts Referred:

Citation : (2019) 03 P&H CK 0267

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Sonia G. Singh, Jaswinder Singh Randhawa

Final Decision : Disposed Off

Judgement

Harsimran Singh Sethi, J

In the present writ petition, the claim of the petitioner is for grant of the promotional increment after completion of 23 years of service.

Learned counsel for the parties agreed that the writ petition involving the same question of law had come up before the Coordinate Bench of this Court on 29.11.2018 on which date a bunch of 396 writ petitions were disposed of by directing that the case of the petitioners therein be considered in the light of the decision rendered by this Court in LPA No. 997 of 2016 titled as Punjab State Power Corporation Limited Vs. Nirmala decided on 22.09.2016, which order has already been upheld by Hon'ble the Supreme Court while deciding SLP No. (C) Diary No. 30953 of 2017, which was dismissed on 13.10.2017.

While disposing of the writ petitions, the Co-ordinate Bench recorded that respondent-Corporation will also be bound by the decision taken in the meeting held on 21.08.2018 as well as in meeting held on 20.09.2018 while considering the cases of the petitioner(s) therein with regard to the prayer made for the grant of promotional increments after 23 years of service. The arrears have been restricted by the Co-ordinate Bench to 36 months prior to the date of filing of the

writ petitions. The order passed by the Co-ordinate Bench on 29.11.2018 in CWP No. 1013 of 2017 is as under :-

"1. When CWP No. 20139 of 2015, Chiman Singh Vs. Punjab State Power Corporation Limited and others was decided on 29.02.2016, the following order was passed :-

1. This order will dispose of above-mentioned case as well as other writ petitions* tabulated at the foot of the order, as common questions of law and fact are involved in them which can conveniently be decided by a common order.

2. Heard. These matters are covered by the decision of this Court rendered in LPA No. 883 of 2012, decided on July 3, 2012, which orders have attained finality with dismissal of SLP No.20468 of 212 and other connected petitions. A bunch of similar writ petitions have already invited judgment of the learned Single Judge in Mahinder Singh v. Punjab State Power Corporation Ltd. & Ors. (CWP No.19234 of 2015), decided on December 23, 2015 disposing of the case in the light of the principle laid down by the Division Bench in LPA No. 883 of 2012 and in the same terms. Meaning thereby that the cases of persons who retired from service before March 17, 2010 stand covered with the condition that the financial benefit of promotional increment will be granted to all the employees who have completed 23 years of regular service as on March 17, 2010.

3. This petition and the connected writ petitions are disposed of in terms of the aforesaid orders.

2. Subsequent to the passing of the order, the Corporation in its Board meeting held at Mohali on 02.08.2018 has resolved on the subject matter of grant of 23 years advance promotional increments to accord relaxation of terms and conditions thereof, which resolution dated 21.08.2018 reads as follows:

"Resolved that officers/Employees/Retirees whose 23 years advance promotional increment falls due from 16.12.1991 to 17.03.2010 be allowed the same from the due date as per instructions issued vide F.C. No. 62/1992 dated 16.12.1992.

Further resolved that the pay/pension of the Officer/Employees/Retirees whose 23 years Advance Promotional increment falls due from 16.12.1992 to 17.03.2010 shall be fixed notionally and no arrear on account of pay, pension, gratuity leave encashment and commutation of pension etc. will be paid and only the financial benefit on account of difference of pay/pension fixed notionally shall be allowed from the date of notification (Circular) by PSPCL."

3. Further to the decision taken by the Board in its subsequent 71st meeting held on 20.09.2018, on the same subject matter it was decided as follows on 01.10.2018:

"Resolved that following amendments in existing instructions regarding grant of 23 years advance promotional increment issued vide FC No. 20/2000 dated 28.07.2000, FC No. 53/2011 dated 18.11.2011 for employees and FC No.

54/2011 dated 18.11.2011 for officers along with exemption of passing of departmental examination, if any, be and is hereby approved with effect from the date of issue of notification (Finance Circular) by PSPCL:

Sr. No.

Present clauses

Proposed clauses

1.

He/she has the avenue of three promotions but has not earned three regular promotions in his/her regular service from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.

Deleted

2.

He/she has not earned third promotion in his/her regular service between 16th and 23rd years of service

He/she has not earned three promotions upto 23 years of regular service from the date of joining on the induction post/or any other post specifically declared as induction post for granting time bound promotional/devised promotional scale.

3.

he/she has not been placed in a scale which is higher than the scale of his/her next higher post

Deleted

4.

The increment(s) are in the nature of advance promotional benefits to be absorbed in the next regular promotion.

No change

5.

Those who forego promotion shall not be entitled for this benefit

No change

6.

The benefit of advance promotional increment will be allowed without change in grade pay (Wherever applicable) and the date of annual increment will remain unchanged.

4. As a result, the rights of the petitioner/s will be governed by the decision in LPA No. 997 of 2016, 'Punjab State Power Corporation Limited Vs. Nirmala Rani' decided on 22.09.2016 and other connected appeals and the orders of the Supreme Court in Interlocutory Applications in SLP (C) Diary No. 30953 of 2017 dismissed on 13.10.2017 and keeping in view the two resolutions of the Corporation (supra) the further course of action, in any, will be governed by this order. Relief will be regulated on the cumulative effect of these judicial and administrative decisions. So far as payment of arrears of benefit of promotional increments is concerned, those will be determined by the Corporation restricted to 36 months from the date of filing of the respective writ petitions.

5. With these observations, these petitions are disposed of. The entire exercise be carried out within three months from the date of receiving of the certified copy of this order and the financial benefits be disbursed to the rightful owners/recipients within the next two months failing which the amounts will carry 6% interest till realisation."

(RAJIV NARAIN RAINA)

29.11.2018 JUDGE"

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Learned counsel for the parties request that the present writ petition be also disposed of in terms of the above mentioned order as it also involves the same question of law and similar facts.

In view of the request, the present writ petition is also disposed of in terms of the order passed by this Court in CWP No. 1013 of 2017, decided on 29.11.2018.