



2026:AHC-LKO:51236

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 9145 of 2011

Putti Lal

.....Petitioner(s)

Versus

State Of U.P.Thru. Prin. Secy. Power Lko.And Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: Sabha Jeet Singh, Deep Shanker Verma, Savita Jain
Counsel for Respondent(s)	: C.S.C., Manish Jauhari, Neerav Chitravanshi, S.S.Asthana, Vijay Pratap Singh Rathor, Vikrant Raghuvashi

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Ms. Savita Jain, learned counsel for the petitioner, Sri Devesh Mishra, learned Additional CSC for respondent No.1 - State and Sri Manish Jauhari, learned counsel for respondent Nos.2 to 4.

2. The present writ petition has been filed for issuance of a direction in the nature of mandamus commanding the respondents to provide amended second and third time scale with all consequential benefits in pursuance to order dated 23.08.2007 with a further prayer to quash the impugned order dated 12.01.2012 passed by respondent No.4 contained as Annexure-11 to the writ petition and to not give effect to order dated 12.01.2012 passed by respondent No.4.

3. Factual matrix of the case is that the petitioner was initially appointed as Junior Noter and Drafter (Circle Cadre) on a temporary post at Panki Thermal Power Station, Kanpur, vide appointment order dated 31.08.1967 and joined his duties accordingly. On account of his satisfactory service, the petitioner was promoted to the post of Senior Noter and Drafter (Circle Cadre) on 15.01.1971 and continued to discharge his duties at Panki Thermal Power Station.

4. Vide order dated 24.04.1978, the services of the petitioner were absorbed in the Chief Engineer Cadre of the U.P. State Electricity Board as Senior Noter and Drafter, whereupon he started working in the office

of the General Manager, Panki Thermal Power Station. Subsequently, he was confirmed on the said post vide order dated 01.04.1983.

5. The petitioner was thereafter promoted to the post of Office Superintendent (Chief Cadre) and joined the promotional post. He continued to serve in the Chief Engineer Cadre and ultimately retired from service on 31.07.2001 while working as Office Superintendent in the office of the Chief Regional Engineer, U.P. Power Corporation Ltd., Kanpur.

6. After his retirement, the petitioner was extended all retiral benefits admissible to employees of the Chief Engineer Cadre and has been receiving pension from the said cadre, thereby acknowledging his status as a Chief Cadre employee. The grievance of the petitioner is that although he had been granted the first, second and third time-bound pay scales during service, he was illegally denied the revised second and third time-bound pay scales of Rs. 1850-2930 and Rs. 2600-4000 on the sole ground that his initial appointment had been made in the Circle Cadre, despite his subsequent absorption and continuous service in the Chief Engineer Cadre.

7. The service conditions of ministerial employees of the U.P. State Electricity Board were originally governed by the **U.P. State Electricity Board (Ministerial Establishment—Offices of Chief Engineer and Other Subordinate Offices) Regulations, 1970**, framed under **Section 79 of the Electricity (Supply) Act, 1948** and duly published in the Official Gazette. Under the 1970 Regulations, a clear promotional hierarchy existed whereby employees appointed as Routine Grade Clerks progressed through the cadre to the posts of Office Assistant Grade-III, Office Assistant Grade-II, Office Assistant Grade-I, Office Superintendent (Special Grade) and thereafter Administrative Officer. The petitioner, after his absorption in the Chief Engineer Cadre, became part of the said promotional cadre.

8. The pay scales applicable to various posts in the Chief Engineer Cadre from 01.04.1984 and after the revision with effect from 01.01.1996 included the revised scales of Rs. 1850-2930 for Office Superintendent

(Special Grade) and Rs. 2600-4000 for Administrative Officer, which formed the basis for grant of the second and third time-bound promotional benefits.

9. In the year 1998, the respondents introduced the **U.P. Electricity Board (Ministerial Establishment Chief Engineer Office and Other Subordinate Offices) (Second Amendment) Regulations, 1998**, whereby Rules 5(1)(a), 5(1)(b) and Rule 9(2) were amended retrospectively with effect from 01.04.1984, thereby altering the promotional avenues, recruitment sources and eligibility conditions applicable to ministerial employees of the Chief Engineer Cadre.

10. According to the petitioner, the retrospective amendments disturbed the long-standing service structure and deprived employees, including the petitioner, of their vested promotional and financial benefits. The amendments also adversely affected the fixation of salary and consequential retiral benefits including pension, gratuity and commutation.

11. Aggrieved by the aforesaid amendments, Vidyut Karyalaya Karmik Sangh filed Writ Petition No. 264 (S/S) of 1999 and A.G. Moinuddin and others filed Writ Petition No. 1289 (S/S) of 2003 challenging the constitutional validity of the amended Regulations on the ground that they had not been validly notified in the Official Gazette as required under Section 79 of the Electricity (Supply) Act, 1948 and that vested service rights could not be taken away retrospectively.

12. This Hon'ble Court, by a common judgment dated 23.08.2007, allowed the aforesaid writ petitions and granted relief to the affected employees, thereby restoring their entitlement to the service benefits available under the unamended Regulations. Pursuant to the aforesaid judgment, the Chairman and Managing Director of U.P. Power Corporation Ltd. issued directions on 04.11.2009 for implementation of the judgment and extension of the consequential service benefits to eligible employees.

13. Despite the aforesaid judgment and administrative directions, the respondents failed to extend the benefit of the revised second and third

time-bound pay scales to the petitioner, although he had retired from the Chief Engineer Cadre and was otherwise similarly situated to the employees who had been granted such benefits.

14. The petitioner repeatedly represented before the authorities through representations dated 17.02.2010, 28.09.2010, 10.10.2010, 12.10.2010, 18.10.2010, 02.11.2010 and 28.06.2011, requesting implementation of the judgment dated 23.08.2007 and grant of the revised pay scales, but no effective action was taken.

15. The Executive Engineer, vide letter dated 06.10.2010, informed the petitioner that appropriate action regarding payment of the revised pay scales would be taken after obtaining necessary directions. Similarly, the Chief Engineer, Dakshinanchal Vidyut Distribution Nigam Ltd., by communication dated 25.10.2010, recommended that the petitioner's claim for the revised pay scales be processed.

16. The petitioner asserts that several employees junior to him, including A.G. Moinuddin, and other similarly situated employees of the Chief Engineer Cadre have already been granted the revised second and third time-bound pay scales in compliance with the judgment dated 23.08.2007, whereas the petitioner alone has been denied the same without any rational basis.

17. It is averred that another employee, Aminuddin Ahmad, who had initially been appointed in the Operating Staff and whose initial cadre was different, was nevertheless granted the revised second and third time-bound pay scales after absorption, demonstrating that the respondents have adopted an arbitrary and discriminatory "pick and choose" policy in the petitioner's case. Ultimately, the respondents rejected the petitioner's claim vide order dated 12.01.2012, solely on the ground that his initial appointment had been made in the Circle Cadre and, therefore, he was entitled only to the time scales applicable to that cadre, completely ignoring the fact that his services had been permanently absorbed in the Chief Engineer Cadre decades earlier and that he had retired from that cadre after rendering long service therein.

18. The petitioner contends that once his services stood absorbed in the

Chief Engineer Cadre, he became a member of that cadre for all service purposes and was legally entitled to the same promotional and financial benefits as all other employees of the cadre. The denial of the revised second and third time-bound pay scales solely on the basis of his initial appointment is wholly arbitrary, discriminatory and contrary to the judgment dated 23.08.2007.

19. It is, therefore, pleaded that the impugned action of the respondents, including the rejection order dated 12.01.2012, violates the guarantees of equality and fairness enshrined under Articles 14 and 21 of the Constitution of India, besides being contrary to the binding judgment of this Hon'ble Court and the applicable service regulations. Hence, the present writ petition has been preferred before this Court.

20. Submission of learned counsel for the petitioner is that once the petitioner has been absorbed in Chief Engineer Cadre, the lien on the earlier post vanished and the petitioner is entitled to get the benefits in the merged cadre. She submitted that an amendment was incorporated in the Rules, which was subject matter of challenge in Writ Petition No.264 (S/S) of 1999 and 5958 (S/S) of 1998, wherein Division Bench of this Court after examining the entire material on record set aside the amendment and directed to provide all benefits in Chief Engineer Cadre. Against the said judgment S.L.P. No.2318 of 2007 was filed before Hon'ble Supreme Court of India, which was dismissed vide judgment and order dated 27.07.2009. Meaning thereby, the judgment of the Division Bench of this Court dated 23.08.2007 was affirmed. Therefore, her submission is that the petitioner is also entitled to get the similar benefit, as has been provided by the Division Bench of this Court vide judgment and order dated 23.08.2007.

21. Her next submission is that the respondents adopted discriminatory exercise of power in not providing benefits to the petitioner of second and third time scale, therefore, the order passed rejecting the claim of the petitioner dated 12.01.2012 is wholly illegal, discriminatory and arbitrary in nature.

22. She submitted that the order dated 12.01.2012 has been passed in utter

disregard of the judgment of this Court allowing the writ petition by setting aside the amendment incorporated in the statute book.

23. On the other hand, learned counsel for respondent Nos.2 to 4 submitted that the petitioner was initially appointed in Circle Cadre on temporary basis and was absorbed in Chief Engineer Cadre, therefore, he is not entitled to get benefit of second and third time scale. He also invited attention of this Court on CA-1, page 9 of the counter affidavit, whereby the demarcation in regard to payment of second and third time scale was explained.

24. He next submitted that the impugned order does not suffer from any infirmity or illegality and is just and valid.

25. I have considered the submissions advanced by learned counsel for the parties and perused the material on record.

26. Upon perusal of the pleadings and material brought on record, this Court finds that the controversy involved in the present writ petition lies in a narrow compass. The only question which arises for consideration is whether, after the permanent absorption of the petitioner in the Chief Engineer Cadre and his continuous service therein till retirement, the respondents were justified in denying him the benefit of the amended second and third time-bound pay scales solely on the ground that his initial appointment had been made in the Circle Cadre.

27. It is not disputed that the petitioner was initially appointed in the Circle Cadre in the year 1967. Equally undisputed is the fact that, vide order dated 24.04.1978, his services were permanently absorbed in the Chief Engineer Cadre. Thereafter, he was confirmed in that cadre, earned further promotions therein, discharged his duties as Office Superintendent under the Chief Engineer Cadre and ultimately retired from the said cadre on 31.07.2001. The respondents have also extended to him all retiral benefits including pension treating him as an employee of the Chief Engineer Cadre. Once these foundational facts are admitted, the respondents cannot selectively rely upon the petitioner's initial appointment in the Circle Cadre for denying only the financial benefits

flowing from his absorbed cadre.

28. Absorption in service is not a mere administrative arrangement but results in complete integration of an employee into the new cadre. Upon such absorption, the earlier lien and incidents of the previous cadre cease to govern the service conditions of the employee. Consequently, all rights, obligations, promotional avenues and financial benefits become regulated by the service rules applicable to the cadre in which the employee stands absorbed. Therefore, the very basis adopted by the respondents in the impugned order, namely the petitioner's initial appointment in the Circle Cadre, is legally untenable and contrary to settled principles governing absorption in service jurisprudence.

29. This Court further finds that the issue regarding the validity of the retrospective amendments introduced by the Second Amendment Regulations, 1998 no longer survives for consideration. The Division Bench of this Court, vide judgment and order dated 23.08.2007 rendered in Writ Petition No.264 (S/S) of 1999 and connected matters, declared the impugned amendments unsustainable and restored the service benefits available under the unamended Regulations. The said judgment attained finality after the Special Leave Petition preferred before the Hon'ble Supreme Court, which was dismissed on 27.07.2009. Thus, the respondents were under a legal obligation to faithfully implement the judgment in respect of every similarly situated employee.

30. The records further disclose that the Chairman and Managing Director of the U.P. Power Corporation Ltd. himself issued directions dated 04.11.2009 for implementation of the judgment dated 23.08.2007. Despite such binding judicial and administrative directions, the respondents failed to extend identical benefits to the petitioner. Such conduct is wholly impermissible in law. Administrative authorities cannot refuse to implement a binding judgment by inventing distinctions which were neither recognised nor approved by the Court while deciding the earlier batch of writ petitions.

31. The material brought on record further establishes that several

similarly situated employees, including A.G. Moinuddin and others, were extended the revised second and third time-bound pay scales pursuant to the judgment dated 23.08.2007. The petitioner has also specifically pleaded that Aminuddin Ahmad, whose initial appointment was in a different cadre, was likewise granted the benefit after absorption. These pleadings have not been effectively rebutted by the respondents. The denial of identical benefits to the petitioner, while extending the same to other similarly situated employees, is manifestly arbitrary and violative of Article 14 of the Constitution of India.

32. The sole reasoning assigned in the impugned order dated 12.01.2012 is that the petitioner was initially appointed in the Circle Cadre and, therefore, would continue to be governed by the pay scales applicable to that cadre. Such reasoning completely ignores the undisputed fact of permanent absorption, confirmation, promotion and retirement from the Chief Engineer Cadre. The authority has failed to consider the effect of the binding judgment dated 23.08.2007, the dismissal of the Special Leave Petition by the Hon'ble Supreme Court and the implementation orders issued by the Corporation itself. Consequently, the impugned order suffers from complete non-application of mind and is liable to be set aside.

33. The stand taken by the respondents in the counter affidavit also cannot be accepted. Merely because the petitioner entered service through the Circle Cadre does not confer any legal authority upon the respondents to deny him benefits available to the cadre in which he permanently served for more than two decades. Acceptance of such a contention would render the very concept of permanent absorption meaningless and would create an artificial classification among employees belonging to the same cadre without any rational nexus with the object sought to be achieved.

34. This Court is further of the opinion that the action of the respondents is hit by the doctrine of equality in public employment. Once the respondents themselves have implemented the judgment dated 23.08.2007 in favour of other employees similarly situated, they cannot discriminate against the petitioner by adopting a "pick and choose" policy. Such

arbitrary discrimination is impermissible and offends the constitutional guarantee of equal treatment under Article 14 of the Constitution.

35. The impugned order dated 12.01.2012 is also unsustainable for the additional reason that it completely overlooks relevant considerations while taking into account an irrelevant factor, namely the petitioner's original appointment. It is well settled that an administrative order founded upon irrelevant considerations and ignoring material facts cannot withstand judicial scrutiny under Article 226 of the Constitution of India.

36. In view of the aforesaid discussion, this Court has no hesitation in holding that the petitioner, after his permanent absorption in the Chief Engineer Cadre, became entitled to all service and financial benefits admissible to employees of that cadre, including the revised second and third time-bound pay scales made available pursuant to the judgment dated 23.08.2007. The respondents were wholly unjustified in denying the same on the basis of his initial appointment in the Circle Cadre.

37. Consequently, the impugned order dated 12.01.2012 passed by respondent No.4 cannot be sustained in law and is hereby quashed.

38. The writ petition deserves to be allowed and is hereby **allowed**.

39. A writ in the nature of mandamus is issued commanding the respondents to grant to the petitioner the amended second and third time-bound pay scales, strictly in terms of the judgment dated 23.08.2007, by treating the petitioner as a member of the Chief Engineer Cadre, together with all consequential service and retiral benefits, including revision of pay fixation, pension, gratuity, commutation, arrears and every other monetary benefit legally flowing therefrom.

40. The respondents are directed to undertake the entire exercise of re-fixation of pay and pension and to calculate and release all consequential arrears payable to the petitioner within a period of four months from the date a certified copy of this judgment is produced before the competent authority. In case the aforesaid amount is not released within the

stipulated period, the petitioner shall also be entitled to interest in accordance with law from the date the amount became due till the date of actual payment.

41. There shall be no order as to costs.

(Irshad Ali,J.)

July 28, 2026
Adarsh K Singh