

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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LPA-1695-2019 (O&M)

Decided on : 25.05.2022

Bhakra Beas Management Board & another ... Appellants

Versus

Jagdish Ram ... Respondent

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr.Sachin Mittal, Advocate, for the appellants.

Mr.J.P.Sharma, Advocate, for the respondent.

G.S. Sandhawalia, J. (Oral)

The present appeal is directed against the order of the learned Single Judge passed in CWP-16169-2013 filed by the respondent-writ petitioner on 11.07.2018.

In effect, the learned Single Judge has allowed the writ petition directing the appellants herein to step-up the pay of the writ petitioner equal to that being drawn by his junior, Bhupinder Singh from the due date. The learned Single Judge had found that the junior was granted the benefit of Time-Bound Promotional Scale (TBPS) on completion of 9 years of service w.e.f. 12.04.1998. It was found that the writ petitioner had been given the second promotional scale on 01.10.2003 on completing 16 years of service but not given the benefit of the one on completing 9 years and thus, the pay anomaly had occurred and the person junior to the writ petitioner had been granted both 9/16 TBPS.

Counsel for the Board has tried to draw our attention to the Finance Circular dated 23.04.1990 which was notified by the Punjab

State Electricity Board and had been adopted by the appellant-Board vide its communication dated 11.06.1990 (annexed with the writ petition as Annexure P-3 Colly.). It is submitted that since the appointments are of 1989 therefore, the said adoption was prospective and not retrospective.

We are of the considered opinion that the said argument is not liable to be accepted since a perusal of the circular dated 23.04.1990 adopted by the Board would go on to show that it would take effect from 01.01.1986. Even otherwise, the benefit of the circular had been given to the junior as noticed by the learned Single Judge who was appointed on 12.04.1989 as Khansama-cum-Chowkidar in the pay-scale of Rs.830-1560. The petitioner had already been promoted on the said post on 01.04.1989 and thus, the petitioner was senior to him but he had not been granted the benefit of 9 years promotional scale. Once similarly situated person has been given the benefit of the same circular that had been adopted on 11.06.1990, which was obviously on the premise that it had to come in operation from 01.01.1986. Therefore, the Board could not now urge that it was only prospective in nature qua one employee and not qua the junior who had been granted benefit.

It is also to be noticed that the learned Single Judge took into consideration the fact that the writ petitioner was appointed as Chowkidar-cum-Cook on 30.09.1987 in the pay-scale of Rs.300-430 which had been revised to Rs.750-1350. He had been promoted as Khansama-cum-Chowkidar in the same pay-scale of the junior which had been revised to Rs.830-1600 from Rs.830-1560 and therefore, not having earned promotion for 9 years thereafter, would be entitled for the benefit

of the TBPS. The learned Single Judge has also relied upon the judgment of the Apex Court in SLP (C) No.9615 of 2000, Punjab State Electricity Board & another Vs. Ajit Singh Aujla & another, decided on 14.07.2000 wherein it was held that the mode of recruitment could not be the base of discrimination and both the promotees and the direct recruits who had put in the requisite 16 years of service, could not be differentiated. In such circumstances, we do not find any error in the order passed by the learned Single Judge granting the said benefit.

Accordingly, in view of the above discussion, the present appeal being without any basis in the absence of any illegality or irregularity in the order of the learned Single Judge, is hereby dismissed.

(G.S.SANDHAWALIA)
JUDGE

May 25, 2022
sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No