

2025:PHHC:013667-DB



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

CWP No.16694 of 2021 (O&M)

Decided on : 28.01.2025

GANGA PARSAD

...Petitioner

VERSUS

THE PUNJAB STATE POWER CORPORATION LTD. AND OTHERS

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Abhishek Khullar, Advocate
for petitioner.

Mr. A.S. Chadha, Advocate
for respondents.

LISA GILL, J.

1. Petitioner seeks setting aside of order dated 24.09.2020 (Annexure P-5), whereby his claim for 23 year promotional scale alongwith interest @ 12% from the date on which it became due i.e. 08.02.2001, has been rejected. He also seeks setting aside Finance Circular dated 01.10.2018 (Annexure P-7) to the extent it has been made applicable prospectively.

2. Brief facts necessary for adjudication of the matter, as pleaded are that petitioner, was appointed as Peon with the respondent-Corporation on 09.02.1978. He was promoted as Bill Distributor (BD) on 16.02.1985 and retired as such on 30.11.2013. Petitioner claims that he was entitled to grant of 23 year

promotional scale on completion of 23 years of his service on 08.02.2001. When this benefit was denied, he filed CWP-22562-2016, which was disposed of on 22.04.2019 alongwith a number of other writ petitions (lead case CWP-21385-2016) wherein respondents were directed to take a decision on pending representations of petitioners, in terms of decision dated 29.11.2018 in CWP-1013-2007, titled 'Balvir Singh Vs. PSPCL and another'. Accordingly, speaking order dated 24.09.2020, Annexure P5, was passed whereby claim setup by petitioner was rejected on the premise that petitioner did not fulfill condition (i) of Finance Circular 20/2000 dated 28.07.2000 i.e. third avenue of promotion was never available to petitioner. Aggrieved therefrom, present writ petition has been filed.

3. Learned counsel for petitioner vehemently argues that impugned order dated 24.09.2020 has been incorrectly passed without taking note of the fact that in terms of circular dated 01.10.2018, condition no. (i) of circular 20/2000 has been deleted. It is contended that prospective application of circular dated 01.10.2018 is illegal and *ultra vires* the Constitution of India as it creates an unreasonable distinction between the employees, same benefit which is available to the employees w.e.f. 01.10.2018 is being denied to petitioner without any rationale or reasonable cause. It is thus prayed that circular dated 01.10.2018 should be declared to have retrospective effect and accordingly promotional scale permissible to petitioner should be afforded.

4. Learned counsel for respondents has opposed the writ petition while submitting that a circular/instruction, until and unless specifically provides that it would have retrospective effect, cannot be deemed to be so. Moreover, petitioner has admittedly retired on 30.11.2013. He never raised such a claim for

promotional scale since 08.02.2001 i.e., the date on which he claims the benefit to have become due. For the first time, CWP-22562-2016 was filed, that too three years after his retirement. It is, thus prayed that this writ petition be dismissed being devoid of any merit.

5. We have heard learned counsel for parties and perused the file carefully with their able assistance.

6. Appointment of petitioner on the post of Peon on 09.02.1978 with erstwhile PSEB, his promotion as Bill Distributor on 16.02.1985 and retirement while pursuing on the said post on 30.11.2013, is a matter of record. It is pertinent to note that the Scheme to allow time bound benefit of promotional scale was put in place by Punjab State Electricity Board (PSEB) i.e. predecessor of respondent-Corporation, as per the Finance Circular No.17/90 dated 23.04.1990. Provision was made for the time bound promotional scale on completion of 09 years and 16 years of service (Annexure P1), on the conditions which are mentioned therein. Subsequently, PSEB vide its circular No.20/2000 dated 28.07.2000, decided to grant benefit of promotional increments to its employees on completion of 23 years service as envisaged in its circular dated 09.11.1999, subject to fulfillment of following conditions:-

“i) he/she has the avenue of three promotions but has not earned three regular promotions in her/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.

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

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

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

v) Those who forego promotion shall not be entitled for this benefit.”

7. It was further provided that this order would be effective from 01.01.1996, without prejudice to the Assured Career Progression Scheme, to be devised consequent upon revision of the scales. Other conditions as incorporated in office order dated 23.04.1990, as amended from time to time, it was directed would remain unchanged.

8. Petitioner's claim was rejected vide speaking order dated 24.09.2020, Annexure P5, on the ground that he did not fulfill condition No.(i) of Finance Circular 20/2000 dated 28.07.2000. It is specifically observed that petitioner's educational qualification is under matric and first condition to get 23 years promotional increment is that the employee must have the avenue of three promotions available. However, third avenue of promotion was not available for petitioner. As per PSEB (now PSPCL) Ministerial Services Class-III Regulation, 1985, there was no promotional channel available for under Matric Peon/BD to post of Lower Division Clerk (LDC). It is further observed that though the condition in question was deleted vide circular dated 01.10.2018, but this circular is not applicable in the case of petitioner as it has been made effective prospectively. Petitioner had admittedly retired from service on 30.11.2013.

9. Circular dated 01.10.2018 had been issued with the following changes:-

Srl. 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	-Deleted-

	promotional scale.	
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.

10. It is pertinent to note that the factual aspect as above is not denied. Argument raised on behalf of petitioner is that circular dated 01.10.2018 should be treated to have retrospective effect on the ground that it is causing in-equality amongst equals by being prospective in nature and that the very basis of granting promotional scales i.e., to prevent stagnation, would be rendered otiose. Bare perusal of circular dated 01.10.2018 does not reveal that it has been made effective retrospectively. It is a settled position that until and unless any instruction, regulation or circular is specifically made effective retrospectively, no presumption regarding its retrospectivity can be raised. There has to be an express provision or the language employed should indicate necessary implication, but in the present case, there is no express provision or even necessary implication. It is useful to refer to judgment of Hon'ble the Supreme

Court in *Zile Singh Vs. State of Haryana and others, (2004) 8 SCC 1*, in this respect. Subsequently, in the case of *State of Punjab and others Vs. Amar Nath Goyal and others, (2005) 6 SCC 754*, decision of the State to limit benefits only to those employees who retired or died on or after 01.04.1995, was held to be justified. It was specifically held that financial and economic implications are relevant and germane for any policy decision touching administration of the Government at the Central or State level.

11. Another aspect to be considered is that in the present case, petitioner admittedly retired in 2013. He claimed the benefit to be due to him from 08.02.2001. On a pointed query, learned counsel for petitioner candidly concedes that petitioner did not raise any claim in this respect till his retirement on 30.11.2013 and even after his retirement writ petition was filed in the year 2016 i.e. CWP-22562-2016, which was disposed of with a direction to the respondents to decide his claim in terms of decision in *Balvir Singh's* case (supra). Writ petition thus also suffers from delay and laches.

12. Learned counsel for appellant is unable to point out any ground whatsoever, which calls for any interference in this matter.

13. Writ petition is, accordingly, dismissed with no order as to cost.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

28.01.2025
Sunil

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No