IN THE COURT OF DAMANDEEP KAMAL HEERA, PCS, CIVIL JUDGE (JUNIOR DIVISION), PATIALA

CS/350/2023
PBPT020006072023
Date of Decision: 03.07.2026

Suhil Kumar aged about 58 years, son of Shri Baldev Rai, Revenue Accountant (I.D. 206657), #41 Block-B, Defence Enclave, Lohgarh Road, Zirakpur (Mohali) working in the office of DS Sub Division, PSPCL Balacaur-1.

...Plaintiff

Versus

Punjab State Power Corporation Ltd, Patiala through its Chairman-cum- Managing Director.

…..**Defendant**

SUIT FOR DECLARATION to the effect that the office orderNo.218 dt. 25.11.2020 and No. 02 dt. 04.01.2021 issued by Sr. Executive Engineer/DS Division, Zirakpura to the extent whereby the plaintiff has been granted devised promotional benefit on-completion of 23 years service w.e.f. 01.10.2018instead of 19.01.2010 and further action of the defendant by not granting and making payment of arrears on account of grant of devised promotional benefit on completion of 23 years service w.e.f. 19.01.2010 are illegal, null and void, ultravires, malafide, unconstitutional, discriminatory, against the principles of natural justice and rules and regulations governing the services of the plaintiff and notwithstanding the said illegal action, the plaintiff is titled for grant and payment of the benefit of devised promotional increment on completion of 23 years service w.e.f. 19.01.2010 with arrears and interest @18% p.a which the plaintiff would have drawn/ enjoyed had the plaintiff has been allowed devised/advance promotional increment on completion of 23 years service w.e.f. 19.01.2010 **AND FOR MANDATORY INJUNCTION** directing the defendant to modify the office order No. 218 dt. 25.11.2020 and No. 02 dt.04.01.2021 granting benefit of devised promotional increment on completion of 23 years service w.e.f. 19.01.2010 along with arrears and interest @ 18% p.a

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Present: Ms. Sneh Lata Advocate, counsel for the plaintiff
Shri Sajan Talwar Advocate, for the defendant

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JUDGMENT

1. The brief facts of the present case as put forth by the plaintiff in the plaint are that the plaintiff joined the services of the erstwhile Punjab State Electricity Board on the post of Internal Auditor on 19.01.1987. Thereafter the plaintiff was promoted on the post of Revenue Accountant on 11/1995. The defendant vide Finance Circular No. 20/2000 has provided for grant of benefit of devised promotional increments on completion of 23 years service and laid down the conditions (I) 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. (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 increments) 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.

2. It is submitted that the plaintiff completed his 23 years of service on 19.01.2010. In light of the above Finance Circular No.20/2000 the plaintiff became entitled for grant of benefit of devised promotional increments on completion of 23 years service w.e.f. 19.01.2010.The plaintiff made various representations and ultimately the plaintiff has been granted benefit of devised promotional increments on completion of 23 years service w.e.f.01.10.2018 vide office order No. 218 dt. 25.11.2020 and No. 02 dt.04.01.2021 issued by Sr. Executive Engineer/DS Division, Zirakpura. Thereafter the plaintiff was verbally informed that he has not been granted the benefit of devised promotional increment w.e.f. 19.01.2010 due to the reason that the plaintiff has not qualified the departmental examination. In para-7 of Finance Circular No. 17/90 issued vide office order No. 197/Fin/ PRC-1988 dt.23.04.1990 provides that there is no need of qualifying the departmental examination for grant of devised promotional increments on completion of 23 years service.

Para-7 of ibid circular is reproduced as :- In case of employees who do not fulfill the qualification/passing of examination essential for their promotion to the next higher post, they shall also be placed into time promotional/ devised promotional scale to be specified by the Board in the schedule as referred to para 5 above. office order No. 218 dt. 25.11.2020 and No. 02 dt. 04.01.2021 issued by Sr. Executive Engineer/DS Division, Zirakpura to the extent whereby the plaintiff has been granted devised promotional benefit on completion of 23 years service w.e.f. 01.10.2018 instead of 19.01.2010 and further action of the defendant by not granting and making payment of arrears on account of grant of devised promotional benefit on completion of 23 years service w.e.f. 19.01.2010 are illegal, null and void, ultravires, malafide, unconstitutional, discriminatory, against the principles of natural justice and rules and regulations governing the services of the plaintiff. The plaintiff has legal, vested and substantive right to get benefit of devised promotional increment w.e.f. 19.01.2010 and the defendant has no right, power or authority to deny the same in an illegal and unjustified manner. The impugned office order No. 218 dt. 25.11.2020 and No. 02 dt. 04.01.2021 issued by Sr. Executive Engineer/ DS Division, Zirakpura is non-speaking order. It has been clearly mentioned in the impugned orders that the plaintiff has completed his 23 years service on 19.01.2010 but no reasons have been assigned as to why the plaintiff has been granted benefit on completion of 23 years service w.e.f. 01.10.2018 instead of 19.01.2010. Thus the impugned orders are non speaking orders. The case of the plaintiff is otherwise governed by the law laid down by the Hon'ble Punjab & Haryana High Court in the case titled as Executive Engineer, Punjab State Electricity Board Vs Paul Singh JE (Retd) and others in LPA No. 883 of 2012 (0&M) decided by the Hon'ble Division Bench consisting of Hon'ble Mr. Justice Hemant Gupta and Hon'ble Mr. Justice Rajiv Narain Raina vide order dt. 03.07.2012 and thus the claim of the plaintiff should have been considered in terms of the aforesaid circular applicable to the plaintiff. In the end prayer has been made to decree the suit. Hence, the present suit.

3. Upon notice the defendant appeared through counsel filed written statement taking preliminary objections interalia on the ground of maintainability, no locus standi and no cause of action, beyond the period of limitation. On merits, it is submitted that the Finance Circular 20/2000 is the policy of the defendant department and the same has been amended from time to time by the defendant department. Prayer for dismissal of the suit has been made.

4. Replication to the written statement of the defendant was filed wherein the averments raised in written statement by defendants were controverted and those of plaint were reiterated.

1. Whether the plaintiff is entitled for the relief of declaration as prayed for?OPP
2 Whether the plaintiff is entitled for mandatory injunction as prayed for?OPP
3 Whether the suit of the plaintiff is not maintainable in the present form?OPD

4. Whether the suit of the plaintiff is time barred?OPD
5. Whether the plaintiff has no cause of action to file the present suit?OPD
6. Relief.

5. In order to prove its case, the plaintiff has himself stepped into witness box as PW1 and tendered duly sworn affidavit which is EXPW/A and reiterated the contents of plaint and thereafter the plaintiff has closed evidence of the plaintiff after tendering the documents Ex.P7 and ExP8.

6. The learned counsel for the defendant has tendered into evidence documents Ex.D6 and has closed the evidence on behalf of the defendant.

7. No rebuttal evidence was produced by the plaintiff and learned counsel for the plaintiff closed the rebuttal evidence on behalf of plaintiff by suffering statement.

8. I have heard the rival contentions of the learned counsels for the parties and have gone through the record of the case very carefully and minutely. My issue-wise findings are as under:

ISSUE NO.1 to 5 :

9. Onus to prove issues no.1 and 2 lies upon the plaintiff, whereas issues no.4 and 5 lies upon the defendants. The learned counsel for the plaintiff argued that the plaintiff was not granted second or third promotion throughout his service carrier. The plaintiff is entitled to grant of devise promotional increment on completion of 23 years of service on 19.01.2010 as per finance circular no.20/2000. He further argued that the

order passed by the department, which is Ex.P2 does not reveal reason for amendment particularly when it has been specifically mentioned that the plaintiff had completed his 23 years of service on 19.01.2010. He further argued that it is not necessary for the plaintiff to clear the department exam. He further argued that passing of a departmental examination is not applicable in the case in hand as the plaintiff become eligible for devised promotional scale prior to 17.03.2010 and thus governed by the terms of circular dated 23.04.1990. It is therefore, prayed that suit of the plaintiff may kindly be decreed with costs.

10. The learned counsel for the defendant argued that the present suit is not maintainable as the department has duly follow the instructions which were formulated for awarding the benefit of ACP on the completion of requisite year of service and as per finance circular no.17/2018 and 20/2018, which provides that there is no provision for awarding any arrears and further more the department has rightly passed an order. He further argued that the case of plaintiff is false and frivolous. The circular no.17/20 also clarify that if a person complete 23 years of service during the intervening period as a one time measured, the benefit is to be advanced w.e.f. 01.10.2018.

11. It is the case of the plaintiff that he has joined the service of erstwhile Punjab State Electricity Board on the post of Auditor on 19.01.1987 and was promoted on the post of Revenue Accountant on 11.01.1995. The defendant vide finance circular no.20/2000 has provided for grant of benefit of devised promotional increments on the completion

of 23 years of service and has laid down the following conditions:-

i. 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.

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.

12. After examine the case of the plaintiff, it is found that the plaintiff has joined the services as internal auditor and was receiving the scale of ₹4450 and when he was promoted as Revenue Accountant, he was receiving the pay scale of ₹4700 and as per page 26 of service book in which it is categorically mentioned that the plaintiff is receiving ₹4800 pay scale, which is higher than the scale of their next higher promoted post which is Assistant Account Officer detail mentioned as per service book. So plaintiff doesn't fulfil 3rd condition of Finance circular no 20/2000 dated 28-7-2000.

13. Vide Finance Circular 17/2018 dated 21.08.2018 decision has been taken to waive off only the condition of passing departmental exam

for getting 23 years advance promotional increment for those officers/Employees/Retirees whose 23 years advance promotional increment falls due from 16.12.1992 to 17.03.2010. Whereas petitioners completed 23 years of service on dated 19.01.2010. Therefore, case of plaintiff is covered in instructions issued vide Finance Circular 17/2018 dated 21.08.2018 but third condition of FC 20/2000 is not fulfill by the plaintiff.

14. The case of the plaintiff is also examined in the light of direction of Hon'ble Court's decision dated 27-3-2023 in the CWP No 2346/2017 which is as under :-

15. Vide FC 20/2018 dated 01.10.2018 condition higher scale of next promoted post has been removed, but the said circular is applicable prospectively i.e. from the date of issue of notification i.e 01-10-2018. Whereas plaintiff completed 23 years of service on dated 19.01.2010. Therefore, their case for grant of 23 years advance promotional increment is also not covered in Finance Circular 20/2018 dated 01.10.2018. So as fact given above the plaintiff does not fulfill the required conditions keeping in view of above, the 23 years advance promotional increment not admissible to plaintiff and the claim of the plaintiff is hereby denied.

16. Perusal of the office order passed by the department show that the case of the plaintiff has already been considered by the concerned department and he has not been held entitled for grant of promotional increment on completion of 23 years service as the plaintiff had already been drawing higher scale of ₹10,900/34800+4800 GP (revised), which is

higher than the scale of his next higher promoted post, which is Assistant Account Officer and, therefore, plaintiff does not fulfil third condition of finance circular dated 28.07.2000, which is to the effect that if the employee has been placed in a scale which is higher than scale of his/her next higher post then he/she is not entitled for promotional increment on completion of 23 years of service. Another reason given while rejecting the claim of the plaintiff is that circular dated 01.10.2018 has been made applicable prospectively i.e. from the date of issue of notification i.e. 01.10.2018 and whereas plaintiff completed 23 years of service on 19.01.2010 and retired on 31.03.2023, therefore, his case for grant of 23 years advance promotional increment is also not covered under finance circular No.20/2018 dated 01.10.2018.

17. Even otherwise, the plaintiff has already retired from service on 31.03.2023 and has raised the scale issues after a period of 16 years and while he was in service, the said issues were never raised by the plaintiff. Once the relationship of master and servant has come to an end on retirement of an employee, the plaintiff cannot agitate the scale issues after such a long time. If the claim of the plaintiff for revised pay scale was genuine, he could have agitated the same when he was in service. Fortified by the judgment passed by the Hon'ble Supreme Court of India in case titled as "H.S. Gill vs Union of India and others", 2016(2) SCT 477, has held that an employee cannot claim the revised pay scale after retirement once he has been receiving the pay scale granted by the employer for the last 03 years.

18. In the present case, the plaintiff is claiming the arrears for the period from 2010 onwards. The plaintiff should have show due deliegence while filing the present suit. The Hon'ble Punjab and Haryana High Court in CWP-3733-2026 case titled as "Fatehpal Singh and Others Vs. Punjab State Power Corporation Limited and others", decided on February 12, 2026 has held that "Fence sitters, who remain passive spectators and challenge administrative actions after their conclusion, cannot be permitted to reopen issues, particularly where third party rights have crystallized in the interregnum. It is well settled and fundamental principle in the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India that while no rigid period of limitation is prescribed, the Courts must be vigilant against entertaining stale or belated claims. A person who sleeps over their rights, allow a situation to crystallize and approaches the Court only after considerable delay cannot seek relief as a matter of right. Such delay and laches constitute a valid and compelling ground for the Court to declined relief, particularly in service matters where the rights of third parties may have become vested in the interregnum."

19. In view of the above mentioned legal provisions, the suit of plaintiff is hopelessly time barred and devoid of merit. The plaintiff, by choosing to remain silent during the service. As such, issues no.1 & 2 are decided against the plaintiff and in favour of the defendants, whreas issues no.3 to 5 are decided in favour of the defendants and against the plaintiff.

RELIEF

20. In view of the above said observations and findings on the above issues, the suit of the plaintiff is hereby **dismissed with costs** Decree sheet be prepared accordingly. File be consigned to the judicial record room.

Pronounced in open Court
Dated: 03.07.2026
*Anil** Stenographer Gr.II*

Damandeep Kamal Heera (PB04016)
Civil Judge (Junior Division)
Patiala
Note:- Certified that judgment is directly dictated on computer