



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 17529-17530 OF 2017

GURMEET SINGH AND ORS. ETC.

....APPELLANT(S)

VERSUS

STATE OF PUNJAB & ORS.

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. These appeals arise from the judgment dated 17th August, 2012 rendered by the Division Bench of High Court of Punjab and Haryana whereby, the intra-court appeals¹ preferred by the appellants herein were dismissed and the judgment dated 11th August, 2011 passed by the learned Single Judge of the High Court was upheld. The Learned Single Judge rejected the Civil Writ Petitions² preferred by the appellants for grant of benefits under the Proficiency Step-up Scheme, 1988 and Assured Career

¹ Letters Patent Appeal No. 2309 of 2011 and Letters Patent Appeal No. 2306 of 2011.

² C.W.P. No. 17985 of 2008 (O&M) and C.W.P. No. 6623 of 2004 (O&M).

Progression Scheme, 1998, by accounting for their entire service period including that in the work charged establishment.

2. Shri P.S. Patwalia, learned senior counsel appearing on behalf of the appellants, vehemently and fervently contended that the Government of Punjab has on its own volition, extended the very same benefits of Proficiency Step-up to other employees situated *at par* with the appellants, and thus, the differential treatment meted out to the appellants tantamount to hostile and subjective discrimination, which is violative of Article 14 of the Constitution of India. In this regard, learned senior counsel drew the attention of this Court to the Policy Circular dated 13th March, 1996, issued by the Department of Irrigation and Power (Irrigation Personnel-III), Government of Punjab, whereby, it was decided that the Government Policy contained in the letter dated 7th May, 1993 would be relaxed and the services of the work-charged staff of Ranjit Sagar Dam would be regularised. He submitted that clause (a) of the said Policy Circular clearly provided that the past services rendered by the employees on work charged/daily basis will be treated as qualifying service for pensionary and all other consequential benefits.

3. Learned senior counsel further referred to various communications and circulars, more specifically to the Circular dated 12th April, 2005 issued by the Chief Engineer, Irrigation Department, Punjab, whereby, it was communicated as below: -

“All the aforementioned judgements which have been allowed by the Hon’ble Courts in favour of the petitioners were filed by various categories of employees for counting of their work charge service rendered prior to regularisation of their services for granting 8/18 years of proficiency step-up(s).

In this regard this be informed that how many similar employees of different categories had left who are entitled for the grant of proficiency step up(s) for 8/18 years after counting their work charge service rendered prior to their regularisation. After clarifying the position, the complete report be sent to this office within 15 days. In addition to aforesaid, this be also conveyed that by doing so from which date the official will be entitled for the grant of 8 and 18 years of proficiency step-up(s) and how much financial burden will have to be bore by the government. You will solely be liable for not sending the complete report as required aforesaid within the stipulated time.”

4. Learned senior counsel for the appellants, thus, submitted that the appellants herein are entitled to reliefs sought for in these appeals by reversing/modifying the judgment rendered by the learned Single Judge of the High Court as upheld by the learned Division Bench.

5. During the course of submissions, Shri P.S. Patwalia had restricted the claims of the appellants to the benefits under the Proficiency Step-up Scheme, 1988.

6. *Per contra*, Shri Shadan Farasat, learned AAG representing the State, vehemently and fervently contested the submissions advanced by the counsel for the appellants and urged that the benefits under the Proficiency Step-up Scheme, 1988 to employees situated *at par* with the appellants herein were extended only in the cases where such employees were granted the said relief in compliance of the orders passed by the courts in judicial proceedings. Nonetheless, Shri Farasat was not in a position to dispute the fact that the Circular dated 12th April, 2005 issued by the Chief Engineer, Irrigation Department, Punjab, clearly provides for the grant of Proficiency Step-up(s) to employees of different categories who were left out after the various judgments of the courts, without any court orders being in force *qua* such employees.

7. We have given our thoughtful consideration to the submissions advanced at the bar and have perused the impugned judgments. With the assistance of learned counsel for the parties, we have thoroughly examined the material available on record.

8. The primary issue that arises for consideration before this Court is whether the service rendered by the appellants herein as work charge employees prior to regularisation is to be accounted

towards the grant of benefits under Proficiency Step-up Scheme, 1988, in view of the fact that other similarly situated employees have already been granted the same benefit.

9. The fact that the appellants herein were regularised in service and the period spent by them in the work-charged establishment was ordered to be counted for qualifying service for pensionary and all other consequential benefits is not in dispute as the same is clearly discernible from the Policy Circular dated 13th March, 1996 referred to *supra*.³ However, a significant bulk of litigation in the form of writ petitions⁴ had ensued on behalf of the employees engaged in the work-charged establishment, who claimed that the services rendered by them as work charge employee should be counted for the grant of benefits under the Proficiency Step-up Scheme, 1988 and the Assured Career Progression Scheme (ACPS), 1998 and their claims were accepted by the High Court of Punjab and Haryana but were restricted to only the Proficiency Step-up Scheme, 1988. Out of these writ petitions⁵, the order passed in C.W.P. No. 219 of 2003, was challenged by the State of Punjab before this Court in SLP(C) No. 7798 of 2004, which stands

³ Refer, Para 2.

⁴ C.W.P. No. 5738 of 1999, C.W.P. No. 17315 of 2001 and C.W.P. No. 219 of 2003.

⁵ *Supra*, Note 4

dismissed *vide* order dated 28th April, 2004 and the order of the High Court was affirmed.

10. A perusal of the impugned judgments would reveal that the Division Bench treated the Proficiency Step-up Scheme, 1988 and the Assured Career Progression Scheme (ACPS), 1998 to be *at par*. However, on a perusal of the judgment passed by the learned Single Judge which has been affirmed by the Division Bench, it is clear that the learned Single Judge took note of the earlier judgment of the High Court, in relation to the same controversy passed in ***Principal Secretary, Irrigation Department, Punjab and Anr. v. President Sri Natha Singh, Their Dam Workers Union (CITU) & Anr.***⁶, which had approved the claims of the work-charge employees in respect of the Proficiency Step-up Scheme, 1988.⁷ Nevertheless, the learned Single Judge while relying upon the judgment in the case of ***Punjab State Electricity Board and Ors. v. Jagjivan Ram & Ors.***⁸, denied the relief to the appellants herein.

⁶ C.W.P. No. 20422 of 2005.

⁷ This order was challenged before this court in SLP(C) No. 12754 of 2006 and the said SLP was dismissed *vide* order dated 19th October, 2010.

⁸ (2009) 3 SCC 661.

11. On examining the judgments rendered by the learned Single Judge and the Division Bench of the High Court, we find that the precise connotations of the Government Circular dated 1st December, 1988, which had introduced the Proficiency Step-up Scheme were not considered in an *apropos* manner. The fundamental distinction in the present case is that the Policy Circular whereby, the services of the appellants were regularised, gave a clear mandate that the services of the work charge employees would be regularised, and the past services of such employees would be treated as qualifying service for pensionary and all other consequential benefits. The High Court seems to have overlapped the Assured Career Progression Scheme (ACPS), 1998 and the Proficiency Step-up Scheme, 1988 for denying relief to the appellants which is not justifiable by any stretch of imagination.

12. This controversy was examined in a reference made to the Industrial Tribunal, Punjab⁹ in the case of ***President, Thein Dam Workers Union (CITU), Shahpur Kandi (Pathankot) v. Principal Secretary, Irrigation Department, Punjab & Anr.***¹⁰ The Tribunal *vide* its order dated 10th August, 2005 held that in

⁹ Hereinafter, referred to as "Tribunal."

¹⁰ Reference No. 39 of 2004.

view of the regularisation policy dated 13th March, 1996, the work charge service of an employee before his regularisation is liable to be counted for grant of Proficiency Step-up(s). A writ petition¹¹ filed by the State against the said order of the Tribunal was dismissed by the Division Bench of the High Court and the SLP¹² preferred challenging the same, has been rejected by this Court *vide* order dated 19th October, 2010. Thereafter, the Irrigation Department of the Government of Punjab *vide* order dated 9th November, 2010 unconditionally decided to implement the decision of the Tribunal.

13. In view of discussion made above and in the peculiar facts and circumstances of the instant case, we feel that the differential treatment could not have been meted out to the appellants herein who formed a part of the same establishment and were similarly situated to the employees who were granted the benefits under the Proficiency Step-up Scheme, 1988.

14. Resultantly, we hereby direct that the appellants shall be entitled to have their services in the work-charged establishment counted as qualifying service for Proficiency Step-up(s) in accordance with the Proficiency Step-up Scheme issued *vide*

¹¹ *Supra*, Note 6.

¹² SLP(C) No. 12754 of 2006.

Government Circular dated 1st December, 1988. The monetary benefits flowing from the above direction shall be paid to the appellants within a period of six months from today.

15. The impugned judgments are reversed and set aside accordingly. The appeals are allowed in the above terms. No orders as to costs.

16. Pending application(s), if any, shall stand disposed of.

.....**J.**
(PAMIDIGHANTAM SRI NARASIMHA)

.....**J.**
(SANDEEP MEHTA)

New Delhi;
November 18, 2024