

A PUNJAB STATE ELECTRICITY BOARD AND ANR.

v.

V.N. SHARMA.

SEPTEMBER 5, 1994

B [K. RAMASWAMY AND N. VENKATACHALA, JJ.]

*Service law : Punjab State Electricity Board (Revised Pay) Regulations, 1988.*

C *Regulations 3, 8.—Promotion to higher post—Fixation of pay in the higher scale—Benefit of minimum of two increments—Regulations prospective in nature—Persons promoted prior to the publication of the Regulations—Held : Not entitled to such benefit.*

D The Punjab State Electricity Board (Revised Pay) Regulations, 1988 came into force on 1st January, 1988 Regulation 8 provided for fixation of pay on promotion, by giving benefit of two increments. The regulations are prospective in nature.

E Respondent, who was promoted prior to the publication of the Regulations, claimed the benefit of two increments. On being denied, he approached the High Court by way of a Writ Petition. the High Court allowed the benefit. Hence this appeal by the Appellant Board.

Disposing of the appeal, this Court

F HELD : 1.1. The Punjab State Electricity Board (Revised Pay) Regulations, 1988 are prospective in operation and those who qualified and promoted after the regulations have come into force alone are entitled to two advance increments and not those who have been promoted earlier to the regulations have come into force. The non obstante clause and also regulation 3 clearly postulates that if there is any inconsistency, then the regulation shall prevail over any other rules. Therefore, the High Court was clearly in error in allowing the benefits to the respondent. [117-F, G]

H 1.2. However, since the respondent had already retired from service it is not necessary to interfere with the order passed by the High Court.

[117-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6895 of 1994. A

From the Judgment and Order dated 31.1.1994 of the Punjab & Haryana High Court in C.W.P. No. 3081 of 1993.

Sarup Singh and Ms. Kirti Mishra for the Appellants B

The following Order of the Court was delivered :

Leave granted.

The only question that arises for consideration in this appeal is whether the respondent is entitled to two advance increments which were granted by the High Court in Civil W.P. No. 3081 of 1993 dated January 31, 1994. The appellant made statutory regulations titled The Punjab State Electricity Board (Revised Pay Regulations, 1988) Which have come into force on 1st of January, 1988. As Rule 3 of the Regulations which says that in these regulations unless anything repugnant in the subject or context the regulations have the overriding effect. Under Regulation 8 it is provided fixation of the pay on promotion thus: Notwithstanding anything contained in these regulations, in case of promotion to a higher post effected after *the date of publication of this order*, the benefit of minimum two increments shall be given while fixing the pay in the scale of the higher post. The next increment in the scale of higher post shall be allowed after the completion of twelve months' qualifying service in that scale under the Rules. These Regulations are prospective in operation and those who have been qualified and promoted after the regulations have come into force alone are entitled to two advance increments and not those who have been promoted earlier to the regulations have come to into force. The *non obstante* clause and also regulation 3 clearly postulates that if there is any inconsistency, then the regulation shall prevail over any other rules. In this statutory background the High Court is clearly in error in allowing the benefits to the respondent. But however since respondent had already retired from service we decline to interfere with the order passed by the High Court. The Civil Appeal is accordingly disposed of. No costs. C D E F G

G.N.

Appeal disposed of.