

*Before Ashutosh Mohunta and K.C. Puri, JJ*

**ANIL WADHAWAN,—Petitioner**

*versus*

**PUNJAB STATE ELECTRICITY BOARD AND OTHERS,—  
Respondents**

C.W.P. No. 1463 of 2005

5th February, 2008

*Constitution of India, 1950—Art. 226—Punjab Government Circular No. 21/2002—Appointment of petitioner as Internal Auditor—After qualifying S.A.S. Part-I examination petitioner appointed as Revenue Accountant in 1994—Petitioner opting and joining post of Divisional Accountant in 1996—After completion of 9 years of service employees entitled to first time bound pay scale—Same pay scale of Revenue Accountant and Divisional Accountant—Whether petitioner entitled to count his service as Revenue Accountant from 1994 to 1996 for purpose of granting time bound scale—Held, yes—However, petitioner cannot claim any seniority over and above Divisional Accountants.*

*Held*, that the pay scale of Revenue Accountant and Divisional Accountant is the same. The petitioner has been working in the same department i.e. PSEB. No doubt, the petitioner cannot claim any seniority over and above, the Divisional Accountants already working, but it would be unfair in case his service as Revenue Accountant is not counted for the purpose of First Time Bound Pay Scale. So, we accept the writ petition and order that the petitioner shall be entitled to First Time Bound Pay Scale from 19th September, 2003 after completion of nine years of his service as Revenue Accountant and Divisional Accountant.

(Para 10)

Rajinder Sharma, Advocate, *for the petitioner.*

Y.P. Khullar, Advocate, *for the respondents.*

**K.C. PURI, J.**

(1) Petitioner has impugned the order dated 10th November, 2004 passed by respondent No. 2,— *vide* which promotional time bound scale after completion of nine years of regular service has been declined to the petitioner.

(2) According to the petitioner in the year 1988 the respondent Board advertised posts of Internal Auditor. The petitioner was ultimately appointed on 10th November, 1988 as Internal Auditor by way of direct recruitment. The petitioner cleared Departmental Examination S.A.S. Part-I. The respondent Board has framed a policy under which 75% of the future vacancies of Revenue Accountants and 25% of future vacancies of Accounts are filled from amongst S.A.S. Part-I qualified officials who opted for the cadre of Revenue Accountants are filled up from amongst the unqualified Internal Auditors on seniority-cum-merit basis. Further with effect from 22nd May, 1995 Internal Auditors, who have qualified S.A.S. Part-I. Examination have been allowed either to opt for the cadre of Divisional Accountant or Revenue Accountant. The pay Scale of Revenue Accountant and Divisional Accountant is the same as Rs. 6750—11050. First time bound scale after nine years of service in both the cadres is Rs. 7000—11750 and second Time Bound Pay Scale after completion after sixteen years of service, the pay scale is of 8550—14100. The petitioner after qualifying the S.A.S. Part-I Examination was appointed as Revenue Accountant with effect from 19th September, 1994, as the petitioner opted for the same. With effect from 1st January, 1996, the petitioner has been put in pay scale of Rs. 6750—11050 on the post of Revenue Accountant. On 22nd May, 1995, a circular was issued by respondent No. 1, giving liberty to the Internal Auditor who have already been promoted as Revenue Accountant after qualifying S.A.S. Part-I Examination to opt for the cadre of Divisional Accountant with a rider that as a Divisional Accountant they will rank Junior to all those who have already been promoted as Divisional Accountants. The petitioner opted for the cadre of Divisional Accountant and accordingly, he was absorbed as Divisional Accountant with effect from 22nd July, 1996. As per finance circular No. 18/91. employees of the respondent Board are entitled for time bound pay scale after completion of nine and

sixteen years of service. The petitioner completed nine years of his regular service on 19th September, 2003 and as such, he was entitled for Time Bound Pay Scale after completion of nine years of service. The case of the petitioner was recommended by respondent No. 3. Respondent No. 2 rejected the recommendation of respondent No. 3,— *vide* impugned letter 10th November, 2004 on the ground that petitioner has not completed nine years of service for the cadre of Divisional Accountant. The said order is liable to be set aside and petitioner be held entitled to time bound promotion on completion of nine years of service of 19th September, 2003.

(3) Notice of the petition was given to the respondents who filed reply denying the contents of the petition. It is pleaded that the petitioner himself gave his consent to the effect that he may be given nine years time bound pay scale from 22nd July, 2005 i.e. the day when he opted from new cadre of appointment by considering the post of Divisional Accountant as induction post. The petitioner opted for change of cadre from Revenue Accountant to the cadre of Divisional Accountant and he has been placed at the bottom to all those who had already promoted as Divisional Accountant, meaning thereby he will loose all benefits for the period he remained as Revenue Accountant before his change of cadre.

(4) We have heard both the sides and have gone through the record of the case.

(5) So far as the facts of the case are concerned, that are not in much dispute. The petitioner joined the Board on 10th November, 1988 as Internal Auditor by way of direct recruitment. He cleared S.A.S. Part-I Examination and consequently, he was promoted as Revenue Accountant with effect from 19th September, 1994 and the petitioner opted for the post of Divisional Accountant and joined as such with effect from 22nd July, 1996.

(6) It is also not disputed that after completion of nine years of service the employee of the Board is entitled to First Time Bound Pay Scale. It is also not disputed that pay scale of Revenue Accountant and Divisional Accountant is the same. The only dispute between the parties is whether

the period of service of the petitioner from 19th September, 1994 to 22nd July, 1996 as Revenue Accountant is to be counted for the purpose of granting him First Time Bound Pay Scale or not. In other words, whether the said period of nine years for grant of First Time Bound Pay Scale has to be counted from 19th September, 1994, when the petitioner joined as Revenue Accountant or from 22nd July, 1996 when the petitioner was inducted as Divisional Accountant. It is not disputed that petitioner has been allowed First Time Bound Pay Scale from 22nd July, 2005 and not from 19th September, 2003.

(7) The case of respondents is that since the petitioner has changed the cadre and as such the period of his service from 19th September, 1994 to 22nd July, 1996 cannot be counted for grant of First Time Bound Pay Scale after completion of nine years.

(8) No doubt, the petitioner has been placed at the bottom in the cadre of Divisional Accountant but we are of the considered view that petitioner is entitled to count his service as Revenue Accountant towards the grant of First Time Bound Pay Scale after completion of nine years. The Punjab and Haryana High Court in Civil Writ Petition No. 6923 of 1988 decided on 21st July, 1998 has held as under :—

“It can be said that the previous service rendered in another department on being transferred on the person’s own violation may be waste out for the purpose of seniority but it cannot be said so far the purpose of experience.”

Hon’ble Supreme Court of India in its judgment dated 15th December, 1989 in C.A. No. 3039 of 1998, **Dwijan Chandra Sarkar and another versus Union of India (1999 S.L.R. Section 39)** held as under :—

“The previous service of an employee appointed by transfer to another department should count for the purpose of time bound promotions but such promotions shall be as a measure personal to them. Such incumbents shall not take benefit of this time bound promotion towards seniority or for the issues related

thereto, which in turn implies that such benefit shall not effect the normal seniority for those higher up”.

(9) Keeping in view the above said authorities, Punjab Government,—*vide* Circular No. 21/2002 decided as under :—

“An employee who has previously held substantively or officiated in the same post, or a permanent or temporary post on the same time scale or a post having identical three/four times pay scales or in which time bound placement/grant of higher pay are provided as in the new post, in a Government department or a body incorporated or which is wholly or substantially owned by the Government, shall, in addition to the protect of pay actually drawn in the corresponding scale as per provisions of Rule 4.4(b) of Punjab Civil Services Rules, Vol-1, Part-I count his previous service for the purpose of time bound promotion/grant of higher scale in the new post/service. This protection will be as a measure personal to him. He shall not be entitled to benefit to this time bound promotion towards seniority and shall be placed lower to those already higher up in the seniority list.”

(10) The pay scale of Revenue Accountant and Divisional Accountant is the same. The petitioner has been working in the same. The petitioner has been working in the same department i.e. PSEB. No doubt, the petitioner cannot claim any seniority over and above, the Divisional Accountant already working, but it would be unfair in case his service as Revenue Accountant is not counted for the purpose of First Time Bound Pay Scale. So, we accept the writ petition and order that the petitioner shall be entitled to First Time Bound Pay Scale from 19th September, 2003 after completion of nine years of his service as Revenue Accountant and Divisional Accountant as detailed above and thus, Annexure P-10 stands quashed. The said benefit shall be personal to the petitioner and shall not affect the already Senior Divisional Accountant.

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**R.N.R.**