

**(2009) 07 JH CK 0008**  
**Jharkhand High Court**  
**Case No:** None

Tapeshwar Prasad Singh

APPELLANT

Vs

Jharkhand State Electricity Board  
and Others

RESPONDENT

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**Date of Decision:** July 20, 2009

**Hon'ble Judges:** Dabbiru Ganeshrao Patnaik, J

**Bench:** Single Bench

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**Judgement**

D.G.R. Patnaik, J.

Heard the learned Counsel for the petitioner and the respondents.

2. Grievance of the petitioner is against order dated 29.5.2003 (Annexure 4/1) whereby the date of promotion granted to the petitioner in the selection grade has been revised by computing 14 years of continuous service from the date of his joining the post of Bill Clerk in 1973 and the earlier promotion given to him by computing the period of 14 years from the date of his initial appointment in 1970, has been cancelled. Further grievance of the petitioner is that pursuant to the aforesaid impugned order, recovery of sum of Rs. 515/- per month is being made from the petitioner's salary.

3. Learned Counsel for the petitioner explains that the petitioner was initially posted as Meter Reader in 1970. Subsequently, by annexure 2 he was posted as Bill Clerk in the year 1973 and thereafter on completion of 14 years of service, he was given selection grade pay scale and subsequently in 1990 was granted promotion to the super selection grade.

While it was so, by the impugned order, he has been informed that the promotion granted to him in the Selection Grade by computing 14 years from the year 1970 was incorrect and it should be treated as granted from the year 1973 when he was posted as Bill Clerk and upon such basis, recovery of the purported excess paid amount is sought to be made from the petitioner's salary. Learned Counsel argues

that such action on the part of the respondents is arbitrary and cannot be allowed, since such action has been taken without giving him any prior notice nor any opportunity of hearing. Further more, even if there was any error in computing, no amount, on the plea of excess payments can be unilaterally recovered after lapse of more than 20 years.

4. On the other hand, learned Counsel for the respondents explains that admittedly, the petitioner's initial appointment was on the post of Meter Reader which is a separate cadre from that of Bill Clerk. The petitioner's posting as Bill Clerk was a fresh appointment which the petitioner had voluntarily accepted and therefore the petitioner's promotion on the higher pay scale has to be computed only with reference to the date of his appointment in the cadre of the Bill Clerk.

Learned Counsel submits that as it appears from the pleadings, though no prior notice was given to the petitioner, but in any case, the respondents cannot be prevented from making correction or rectification of the error which had crept in inadvertently and the petitioner cannot raise any grievance against such correction.

5. As it appears from the explanations offered by the respondents, the cadre of Meter Operator is distinct and separate than that of Bill clerk and the post of Bill Clerk is not a promotional post from post of Meter Reader. The petitioner who had accepted his posting on the post of Bill Clerk, has to abide by the Rules prescribed for in the matter of computation of the period of length of service for grant of higher grades. The respondents do have a right to correct errors in assessment as and when such error is detected. However, before making any corrections of purported errors, it is incumbent upon the respondents to give prior notice to the employee whose interest is likely to be affected by the proposed rectification and to give him an opportunity of being heard. This having not been done, the impugned order has to be deemed as violative of the principles of natural justice. Furthermore, having allowed the petitioner to avail his salary of a particular scale for over 20 years, the respondents cannot proceed to recover any amount from the petitioner on the plea of excess payment.

6. In the light of the above discussions, I find merit in this application. Accordingly, this application is allowed. The impugned order dated 29.5.2003 (Annexure 4/1) is hereby quashed. The respondents shall not deduct any amount from the petitioner's salary on the ground of arrears of any excess paid amount and if any such deductions have already been made, then the entire amounts shall forthwith be refunded to the petitioner. The respondents shall however, be at liberty to rectify any error regarding grant of selection grade to the petitioner, but only after giving adequate opportunity to the petitioner of being heard.

With the above observations, this application is disposed of.

Let a copy of this order be given to the Counsel for the respondents.