

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10381 of 1993
Date of decision : 06.05.2015

Jawahar Lal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Mani Ram Verma, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

AMIT RAWAL, J. (Oral)

The petitioner had approached this Court for issuance of appropriate direction to the respondents for regularization of the appointment of the petitioner as Laboratory Technician/Laboratory Assistant from the date he performed duty on the post and to grant him salary of the said post alongwith other consequential benefits by way of grant of increments and crossing of efficiency bar etc.

Mr. Mani Ram Verma, learned counsel appearing on behalf of petitioner on instructions confines his prayer only for payment of salary for the period the petitioner had been performed his duties since August 1990 on the post of Laboratory Technician/Laboratory Assistant.

The petitioner in support of his submissions has brought the attention of this Court to the Experience Certificate (Annexure P-11) issued by the Pathologist, General Hospital, Bhiwani. The Experience Certificate (Annexure P-11) thus reads as under:-

“ Experience Certificate

It is certified that Sh. Jawahar Lal Lab. Attendant is working as Lab. Technician since the period (August 1990). I have come in General Hospital, Bhiwani. His work is satisfactory. He is working honestly and diligently.

*Sd/- Pathologist,
General Hospital, Bhiwani.
8-1-94”*

He further submits that during the pendency of the writ petition, miscellaneous application bearing No.5105 of 1994 was filed. In Paragraph No.3 of the application, Office order dated 18.12.1993 had been extracted which reads as under:-

“As already informed to Laboratory Technician working in Antinatal and Malaria that the work of Malaria and of slides will be performed by Laboratory Technician working in Blood Bank.

The Laboratory Technicians working in

Antinatal and Malaria are directed to give and take the charge of Malaria between each other so that work of malaria may not suffer.

Shrimati Urmila Sharma working as Laboratory Technician is directed to take charge of malaria from Jawahar Lal because duty is of Laboratory Technician. After taking the charge counter signature of Pathologist may be got done. It may be treated as urgent.

Noted.

Sd/- Urmil Sharma

*Sd/- S.N. Sharma
Pathologist/18.12.93*

*Sd/- Kanhaya Lal
L.T.*

*Sd/- Jawahar Lal
18.12.93”*

He further submits that the aforementioned office order irresistibly proves that petitioner had been performing the duty/job of Laboratory Technician from 1983 but the record pertaining to the period 1983 to 1990 was not available with the petitioner and, therefore, in the replication specific prayer was made for summoning of the record in this Court. Thus, petitioner at least is entitled to the salary for the period, he performed duty/job of Laboratory Technician/Laboratory Assistant i.e. from 1983 till 1993.

Mr. Hitesh Pandit, learned counsel appearing on behalf of State submits that averments to the effect that petitioner was working as Laboratory technician w.e.f. 1983 has specifically been denied in the written statement and there is no documents in support of submission

had been placed on record that petitioner has been performing duty of

Laboratory Technician, though he was appointed as Laboratory Attendant in the year 1971. He further submitted that even office order dated 18.12.1993 proves that the charge of Laboratory Technician has been taken back from the petitioner in 1993.

Mr. Mani Ram Verma, learned counsel appearing on behalf of petitioner in rebuttal submits that even the person named in the office order dated 18.12.1993 did not take the charge but charge was given to somebody else which fact has been pleaded in CM No.10437 of 2002.

I have heard learned counsel for the parties and appraised the paper book.

Since the petitioner has confined his prayer for payment of salary from the date he performed his duties of Laboratory Technician. Thus this is called upto adjudicate controversy/dispute with regard to the payment of dues and not with regard to the promotion.

Upon noticing the aforementioned fact, it is clear that no document has been placed on record to show that whether petitioner had performed his duty of Laboratory Technician since 1983. Experience Certificate (Annexure P-11) ex-facie shows that the petitioner had worked as Laboratory Technician since August 1990 and as per office order dated 18.12.1993 (Supra), the charge of Laboratory Technician has been withdrawn from the petitioner in the year 1993, thus, in essence the petitioner has worked as Laboratory Technician for a period of three years.

It is settled law that the person who has worked or performed his duties on a higher post, he is entitled to salary/scale for the said post.

Since it has been proved on record that petitioner worked as Laboratory Technician w.e.f. August 1990 to December 1993, the petitioner is thus, entitled to salary/post and all other benefits for the aforementioned period.

The respondents are thus directed to pay the salary to the petitioner and all other consequential benefits if any for the period he remained posted as Laboratory Technician w.e.f. August 1990 to December 1993.

With the aforementioned direction, the present writ petition stands disposed of.

06.05.2015

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**(AMIT RAWAL)
JUDGE**