

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

**CWP- 16110-1994 (O&M)
Date of Decision : 22.07.2015**

**S.K.Sharma (since deceased and now
being represented through his legal
representatives namely Smt. Sushila Devi
and others)**

.... Petitioners

Vs.

The State of Haryana & others

... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. K.L.Arora, Advocate for the petitioners.

Ms.Shruti Goyal, AAG, Haryana.

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

AJAY TEWARI, J. (ORAL)

By this petition the petitioner has prayed for a direction to the respondents to continue paying him the pay scale of Rs.1000-1500 as revised from time to time.

The brief facts are that the petitioner was appointed as Superintendent by respondent No.3 on 17.12.1983 in the pay scale of Rs.1000-50-1500 and was granted initial pay of Rs.1050/-. He joined as such on 05.03.1984. Thereafter the College sought approval of the scale

and the pay fixation from respondent No.2 but respondent No.2 reduced the scale to Rs.700-1250. In the written statement the plea taken was that in the year 1983 it had been decided that the post of Superintendent and Accounts Officer would be deemed to be in a diminishing cadre and these posts would stand abolished on the vacation of the post by the present incumbent on retirement and that the petitioner was, therefore, appointed on an unapproved post. It was further pleaded that the scale of Rs.1000-1500 was given only to those superintendents who were in office and for those who were appointed after the retirement of the incumbent the pay scale was Rs.700-1250. On 02.04.2014 the following order was passed:-

“ Learned counsel for the respondent-State is directed to get original record of the case to show that the post already stood abolished before the date of advertisement.

Adjourned to 08.05.2014.”

Today learned AAG has very fairly stated that she has seen the original record and there is no communication to the College-respondent No.3 that the post was abolished or had to be abolished after 1983. In this view of the matter the bottom is knocked out of the case of the respondent-State. Once it is shown that there was no decision communicated to the College that the post of superintendent had to be abolished it cannot be held that there was any illegality in appointing the petitioner in the pay scale of Rs.1000-1500.

Consequently this petition has to be allowed. It has to be held that the action of the respondent in reducing the pay scale of the petitioner to Rs.700-1250 is illegal and that he would be entitled to the pay scale of Rs.1000-1500 along with all the subsequent revisions and other consequential benefits. It is stated that the original petitioner has since died and his legal representatives are on the record. Respondents are directed to work out the monetary benefits available under this order and pay them to the legal representatives within a period of three months from the date of receipt of a certified copy of this order failing which they would be entitled to claim the same with interest at the rate of 8% p.a. from the date/s the amount/s fell due till the date of payment.

Petition stands disposed of in the above terms.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

July 22, 2015
Pooja Sharma-I/sunita