

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

CWP NO. 16400 of 1995 (O&M)
DATE OF DECISION: - 22.4.2015

Hardeep Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: - HON'BLE MR. JUSTICE AJAY TEWARI

Present: - Mr. Parminder Singh, Advocate for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. AG, Haryana

Mr. Arun Nehra, Advocate for
respondent No. 4-Municipal Committee.

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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)

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The petitioner was appointed as a pump operator on adhoc basis on 31.5.1986. By letter dated 27.5.1993, the State of Haryana, drafted a regularization policy which is on record as Annexure R-1 and took the following decision: -

“The Casual and Daily rated employees who have completed 5 years service on 31st March, 1993 and were in service on 31st March, 1993 shall be regularised. On regularisation, they shall be put in the time scale of pay applicable to the lowest Group 'D' cadre in the Govt. and they would be entitled to all other allowances and benefits available to regular Govt. servants of the State Government.”

Pursuant to this policy, the services of the petitioner were regularized w.e.f. 12.4.1994 (Annexure P-3).

In an unrelated development, the Government of Haryana revised the pay scales of its employees w.e.f. 1.1.1986 and revised the pay scales of Group 'D' posts to Rs. 950-20-1150-25-1500. Thereafter, various discrepancies were pointed out and the matter was referred to Anomalies Committee and ultimately, the Government decided that w.e.f. 1.5.1990, the pay scales of Group 'D' employees would be Rs. 1200-2040. However, the petitioner was not placed in the pay scale of Rs. 1200-2040, leading the petitioner to file this writ petition.

In the written statement and before me today, the stand taken today was that w.e.f. 1.5.1990, it was decided that only persons who had the requisite qualification of matric with ITI would be appointed to the technical posts and since the petitioner did not have the said qualification of matric with ITI, he could not be granted the pay scale of Rs. 1200-2040.

Learned counsel for the petitioner has relied upon the decision of *CWP No. 18754 of 1991, Gurdev Singh & others vs. State of Haryana and others* (decided on 18.1.2010) along with a number of other similar petitions. It has been held as under: -

“....the petitioners, if, working on technical posts cannot be deprived of the revised pay scales of Rs. 1200-2040/- either on the ground that they are non-matric or that they are ITI or not or even they are having trade certificate of a different trade.

Learned counsel for the petitioner also relies upon a similar decision in *CWP No. 7183 of 2011, Krishan Kumar and others vs. The State of Haryana and others* (decided on 13.2.2012). In both these

decisions, the benefit of pay scale of Rs. 1200-2040 (w.e.f. 1.5.1990) was granted to Group 'D' employees working on technical posts notwithstanding the fact that they did not have the qualification of matric with ITI. Consequently, as per learned counsel for the petitioner, this writ petition has to be allowed in those terms.

Learned counsel for respondent No. 4-Municipal Committee, however, has argued that since the services of the petitioner were regularized w.e.f. 12.4.1994 (Annexure P-3) i.e. after 1.5.1990, actually he was not even eligible for regularization as he did not have the necessary qualification and it was for this reason that the pay scale of Rs. 1200-2040 was not granted to him.

I am afraid this argument cannot hold water. Had the respondent decided not to regularize the services of the petitioner on the ground that he did not have the necessary qualification, it may have been one thing but once his services were regularized in view of the Government policy and since he fulfilled the conditions mentioned in that policy, the requirement of matric with ITI qualification cannot be imposed upon him, moreso, in view of the decisions mentioned above which have admittedly attained finality. In the circumstances, this writ petition is allowed and it is directed that the petitioner be placed in the pay scale of Rs. 1200-2040 from the date of regular appointment in terms of the letter Annexure P-3. Respondents are directed to work out the benefits accruing from today's order to the petitioner and pay the same to him within a period of three months from the date of receipt of the certified copy of this order, failing which the petitioner would be entitled to claim the same with interest @ 8%

per annum from the date/s they fell due to the date of payment.

The petition stands allowed.

[AJAY TEWARI]
JUDGE

22.4 2015

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