

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

CWP No.14395 of 1998
Date of decision : 22.07.2015

Jai Pal Singh Rana and another

...Petitioners

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. Harsimran Singh Sethi, Advocate for the petitioner.

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

AMIT RAWAL, J. (Oral)

The petitioners have knocked the door of this Court for issuance of a writ in the nature of mandamus directing the respondents for grant pay-scale of ₹400-600 w.e.f. 01.04.1979, ₹950-1400 w.e.f. 01.01.1986 and ₹3050-4350 w.e.f. 01.01.1996 i.e. lowest pay-scale admissible to Class-III (Group-'C') employees of the State of Haryana, alongwith arrears and interest.

Mr. Harsimran Singh Sethi, learned counsel for the petitioners submits that the petitioners were appointed as Pump Attendant in 1976 in the time scale of ₹90-3-120/4-140 which is pay-scale for Class III whereas

pay-scale for Class IV post at that time was not exceeding 105 and from the date of appointment till revision in the pay-scale on 01.04.1979 the petitioners have been getting aforementioned pay-scale i.e. ₹90-3-120/4-140. It is only after the revision of pay-scale, the petitioners were granted lowest pay-scale i.e. ₹300-430 instead of ₹400-600. Though the petitioners were aggrieved in the year 1979 but they did not seek vindication of their grievance for the reasons time and again Project Directors had been issuing recommendation to the Director of Animal Husbandry for granting the pay-scale of ₹430-600. Thereafter revision w.e.f. 01.01.1986 to ₹950-1400 and the recommendation continued as laid in the year 1995 i.e. on 17.01.1995 which is evident from the perusal of Annexure P-15 but since respondent did not budge or take any action which compelled the petitioners to serve legal notice dated 27.07.1998 (Annexure P-16). Despite receipt of legal notice, the respondent did not accede to the request which necessitated the petitioner to knock the door of this Court.

He submits that as per Rule 2.31 of Punjab Civil Service Rules, Volume-I, Part-I extracted at page 3 of the the paper book, it was clearly prescribed that the maximum pay working on inferior pay-scale would not exceed ₹105. Thus for all intents and purposes, the petitioners who were getting pay-scale of Class III post till 1979 i.e. from the date of appointment till 1979, were also on revision are entitled to the pay-scale of Class III i.e. revised pay-scale meant for Class III post and not for Class IV post.

Mr. Hitesh Pandit, learned counsel for the State submits that aforementioned Rule was omitted vide Notification dated 26.02.1979 and in this regard referred to Annexure R-2. Notification dated 26.02.1979

promulgated under Article 309 of the Constitution of India where the pay-scale after revision of Pump Attendant had been shown as ₹90-140-300-430, therefore, the said pay-scale is meant only for Class III post and, not for the petitioners.

He further submits that claim of the petitioners was obliterated and grievance if any could have been raised only in the year 1979 not in the year 1998, therefore writ petition is liable to be dismissed on ground of delay & laches.

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

From the perusal of the facts narrated above, maximum pay-scale of the persons working on Inferior Post was not to exceed ₹105 and as per Rule 2.31, which was omitted in 1979, for the reasons, that in case said Rule would have continued, all the Class IV employees drawing the pay-scale of ₹105 on revision would have been drawing pay-scale of Class III posts because minimum pay-scale of Class IV on revision was ₹300 and it was in that context that Legislature omitted the Rule 2.31.

As regards the objection qua belated claim, Mr. Harsimran Singh Sethi, learned counsel for the petitioners has pointed out that since petitioners case was recommended from time to time as late as in 1995 & the petitioners were hopeful for getting the revised pay-scale after revision in 1979 and 1986, they lined on hope with positivity but when State did not reply to legal notice writ petition had been filed.

Thus, the objections raised by the State is hereby rejected, this Court cannot remain oblivious to the fact that cause of action to seek

vindication of right arose only when the respondent authorities did not grant the relief despite recommendations.

On going through the Notification (Annexure R-2) of 1980, it is evident that pay-scale of revision in 1980 of Pump Attendant was 300-430 but the unrevised pay scale was ₹90-140 which was not meant for Class IV employees but for Class III. This position cannot be disputed. Even the appointment letter also envisages the pay-scale on which the petitioners were appointed and had been getting pay-scale of Class III posts till first revision.

In my view, the petitioners are thus entitled to the pay-scale they were drawing prior to the revision. However, I refrain to grant the relief from the date 1979 as they did not claim the relief and thus, they would be entitled to arrears of pay-scale of ₹400-600, ₹950-1400 and ₹3050-4350 on the basis of pay revised in 01.04.1979, 01.01.1986 and 01.01.1996 from the date of filing of writ petition to which their shall be no order to costs or any element of interest.

It has been pointed out during the pendency of the writ petition that one of the petitioner has superannuated, therefore he will be entitled of the aforementioned benefits which would be added in his retiral benefits

The present petition is allowed.

22.07.2015

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**(AMIT RAWAL)
JUDGE**