

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

CWP No.9688 of 1995

Date of Decision: 01.07.2015

Chand Roop Malik, Ziledar

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Anil Rathee, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 26.08.1994 to the extent that no arrears will be paid to the petitioner, whereas, he is entitled for arrears of pay and other allowances w.e.f. 28.09.1983 i.e the date from which his juniors were appointed and regular pay scale was given to them. A further prayer has also been made for issuance of a direction to the respondents to confirm the petitioner as *Ziledar* w.e.f 30.09.1992, the date from which he has passed the departmental examination and has successfully completed the probation period.

Briefly the facts of the case are that the Subordinate Service

Selection Board, Haryana invited application from the eligible candidates for the post of *Zileedar* and the petitioner, being eligible, applied for the said post. The names of total 205 candidates including the petitioner were recommended for appointment as *Zileedar* and the name of the petitioner was at serial No.113. Out of the said list, 79 candidates were sent for appointment at a fixed salary of Rs.550/- per month to be paid during the period of training. Thereafter, another list of 126 candidates was sent for training and the name of the petitioner was at serial No.58 in that list. **CWP Nos.4930 of 1983, 730 of 1984 and 746 of 1984** were filed to challenge the examination conducted by the respondents being violative of Service Rules and Manual of Administration as provided under para No.6.6. Thereafter, CWP No.4594 of 1984 was filed by one Devinder Singh and others and the examination conducted in the year 1984 was set aside. In Civil Appeal Nos.1144, 1145 and 1146 of 1990, a direction was issued to the respondent-State to accommodate all the successful candidates of the three selections within a period of three months from the date of order.

Petitioner appeared for the examination on 10.02.1990 and cleared the test and thereafter, regular grade was granted to him w.e.f. 10.09.1990. Petitioner made a representation for giving him the seniority and other consequential benefits w.e.f. 28.09.1983 as the juniors to him were granted the benefits. Seniority and pay fixation was given to the petitioner w.e.f. 28.09.1983 but arrears of pay and other allowances were denied to him.

Learned counsel for the petitioner submits that the petitioner is entitled for benefits from the date of his confirmation as he has passed the departmental examination on 16.09.1992 but the same have not been granted to him. He also submits that the respondent-department has issued a tentative list dated 01.04.1995 in respect of confirmation of 22

ziledars but the service of the petitioner was not confirmed despite the fact that he had successfully completed the probation period and has even passed the departmental examination on 16.09.1992. Learned counsel further submits that the action of the respondents is not only arbitrary but also contrary to the rules as well as the directions issued by Hon'ble the Apex Court. Learned counsel also submits that some of the *ziledars*, who have been confirmed vide letter dated 01.04.1995 and are much junior to the petitioner, have been granted the benefits and as such, the petitioner is also entitled for all the benefits from the date his juniors have been granted.

Learned counsel for the respondent-State submits that the case of the petitioner was considered along with the other similarly situated employees as per the directions issued by Hon'ble the Apex Court. The representation filed by the petitioner was considered and his claim was accepted to the extent that the seniority is to be maintained as per the list of S.S.S. Board, Haryana and thereafter, the petitioner and others were granted the benefits of seniority and increments but no arrears were paid. All the *ziledars*, including the petitioner, were given the equivalent benefit of pay as that of the 1st batch appointed on 05.03.1984 and those who were appointed on 10.09.1990 were given the same pay and allowances as was given to the petitioner. Learned State counsel also submits that the petitioner and other *ziledars* are getting the same pay and allowances. The petitioner did not qualify the *ziledari* examination up to 10.09.1990 and as such, he was not given the regular pay scale up to that date. Till then, the petitioner was given fixed salary of Rs.550/- per month as per the terms and conditions of his appointment letter issued on 12.03.1982. Since the petitioner did not work as a regular *ziledar* from 28.09.1983 to 10.09.1990 and as such, he was not entitled for arrears of that period. The benefit was

given as per decision in Civil Appeals No.1144, 1145 and 1146 of 1990.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

Admittedly, the examination of *ziledar* was challenged before this Court in **CWP Nos.4930 of 1983, 748 of 1984, 4194 of 1984 and 4746 of 1984**. The decision in said writ petitions was challenged in Civil Appeals No.1144, 1145 and 1146 of 1990, whereby, the direction was issued to the respondent-State to fix the seniority list as per merit list prepared by the Selection Board. Petitioner and other similarly situated employees were given the benefit of seniority, increments but the benefit of arrears of pay was not granted. The claim in the present petition is that the petitioner is also entitled for arrears, whereas, the petitioner did not qualify the *ziledari* examination up to 10.09.1990. He was given benefit of regular pay scale on the basis of examination cleared by him on 10.09.1990. Prior to that, the petitioner was getting fixed salary of Rs.550/- per month as per terms and conditions of the appointment letter issued on 12.03.1982. The petitioner was not entitled for regular scale as he did not work as regular *ziledar* w.e.f. 28.09.1983 to 10.09.1990.

As per Rule 12 of the Service Rules of *Ziledars*, Public Works Department (Irrigation Branch), State Service Class-III Rules, 1955, every *ziledar* is to be put on probation and is required to pass the examination before his confirmation. After passing the examination, the seniority of members of the service was determined from the date of confirmation in the service.

The petitioner passed the Departmental Revenue Examination on 16.09.1992. As per orders passed by Hon'ble the Apex Court, the seniority of all the *ziledars* was fixed and thereafter, the petitioner was granted the benefit of regular service after passing the departmental

examination. The petitioner is not entitled to arrears for the period when he was not getting regular pay scale because of not passing the departmental examination.

There is no illegality or infirmity in the impugned condition of not granting the arrears during the period with effect from 28.09.1983 to 10.09.1990.

Accordingly, the petition, being devoid of any merit, is hereby dismissed.

01.07.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE