

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

CWP No. 15146 of 2012 (O&M)

Date of decision: 27.07.2015

Ujjal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Namit Kumar, Advocate for the petitioner.

Mr. Mehardeep Singh, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the order dated 13.04.2011 (Annexure P-8) passed by the respondents.

It is contended that the petitioner retired as Assistant Soil Conservation Officer on 30.11.1990. The similarly situated persons, stated to be juniors to the petitioner were granted the same relief in LPA No. 587 of 1992 decided on 30.05.1997 and another in CWP No. 6996 of 1992.

The learned State counsel admits the fact that the similar relief claimed by the petitioner had been granted to other similarly situated persons even to the juniors.

I have heard the learned counsel for the parties and have gone through the record carefully.

The petitioner is claiming the pay scale which had been given to his juniors w.e.f. 01.10.1989. The petitioner was promoted as Assistant Soil Conservation Officer on 15.05.1971 and he completed his 18 years of service in the year May, 1989. The other juniors were granted the pay scale in pursuance to the order passed by this Court in CWP No. 6996 of 1992. The precise grievance of the petitioner is that he was appointed as Assistant Soil Conservation Officer and deserves to be kept in pay scale equivalent to Sub Divisional Engineer and Assistant Engineer as per Punjab Government order dated 02.09.2003 (Annexure P-3), in view of interim order passed by the Apex Court in Civil Appeal No. 5811 of 2000, decided on 19.08.2002. The proposition as projected by the petitioner is not disputed. It is settled proposition of law that senior cannot be granted the lesser pay scale than the junior. Moreover, the factum of getting higher pay scale by the juniors has been admitted by the respondents in their written statement. The case is squarely covered by the decision in CWP No. 6996 of 1992 and LPA No. 587 of 1992.

The petitioner is claiming the pay scale of Rs.3700-5300/- out of pay scale which has been given to the juniors of petitioner w.e.f. 01.10.1989. The persons junior to the petitioner have been granted the pay scale of Rs.3700-5300/- w.e.f. 01.10.1989, whereas the petitioner is stated to be senior to them and he is being granted pay scale of Rs.2400-4000/-. The anomaly that senior is being granted the pay scale of Rs.2400-4000/- whereas junior is being in the pay scale of Rs.3700-5300/-. This fact has not been specifically denied in the written statement.

The petitioner is entitled to the same pay scale on the date his juniors have been granted the same scale.

Keeping in view the statement made by the learned State counsel and undisputed factual position, the present petition is allowed, in the same terms as in the order passed in LPA No. 587 of 1992 and the order passed in CWP No. 6996 of 1992. The respondents are directed to release the necessary benefits to the petitioner within four months from the date of receipt of certified copy of the order. The amount so released shall also carry an interest @ 8% per annum on account of delayed payment, in view of the ratio of law laid down in **The Financial Commissioner and Principal Secretary to Govt. of Haryana, Irrigation Department, Civil Secretariat, Chandigarh Vs. Hasan Singh Kanwar**, 2010(1) SLR 788 and **A.J. Randhawa Vs. State of Punjab**, 1998(1) SCT 343. In consequence, the impugned order dated 13.04.2011 (Annexure P-8) is set aside.

27.07.2015

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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to reporter : Yes / No