

Sr.No.241

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP-21533-2014(O&M)

Decided on: **05.11.2015**

Satpal SainiPetitioner

vs.

State of Haryana and anotherRespondents

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Mr.R.K.Malik, Sr. Advocate
with Ms. Rimple Sohi Kadyan, Advocate for the petitioner.
Mr.Hitesh Pandit, Addl. A.G. Haryana.

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Mahesh Grover, J

The petitioner prays for quashing of the order dated 20.04.2012/02.05.2012 Annexure P5 by which benefits of third Assured Career Progression Grade Pay of Rs.5200-20200+G.P Rs.3600/- stands withdrawn after initial grant.

The petitioner is working as a Driver since 1978 having been promoted as such from the post of Helper. There is no dispute as to the grant of first and second Assured Career Progressions but the controversy revolves around the grant and subsequent withdrawal of the third Assured Career Progression. The petitioner having been granted this benefit by virtue of Annexure P4 and lost this benefit on the passing of Annexure P5 without issuance of notice which is one of the grounds of challenge to the impugned order in the present writ petition.

Apart from this, it has been contended that the junior to the petitioner is getting more pay and even if the respondent's stand of dis-entitlement of the petitioner to third Assured Career Progression is held to be justified, then also the petitioner would be entitled to a step up of pay at par of his juniors.

Annexure P1 would indicate that the petitioner ranks senior to one Jarnail Singh whose name appears at serial no.21 of the list as against serial no.16 of the petitioner. This list has not been denied by the respondents. Junior to the petitioner Jarnail Singh has been granted this benefit as indicated from Annexure P6.

ground that he has already availed all three financial upgradations and in accordance with Rule 12 of the Assured Career Progression Rules, 2008, no further Assured Career Progression can be granted to him.

On due consideration of the matter, I am of the opinion that the stand of the respondents cannot be appreciated for two reasons: one the impugned order Annexure P5 has concededly been passed without affording any opportunity to the petitioner which would be totally contrary to the settled law of law mandating adherence to the principles of natural justice. The order Annexure P5, therefore, deserves to be set aside on this score alone.

Apart from this, the respondent's stand also violates another settled proposition of law which mandates that a junior incumbent in the eventuality of drawing more pay would give a rise to the justifiable claim to a senior to warrant step up of pay to equate it with that of the junior. A senior employee cannot be placed in a pay bracket which is less than that of his junior. It has been observed by the Hon'ble Supreme Court in **Commissioner and Secretary to Govt. of Haryana and others v. Ram Sarup Ganda and others** Civil Appeal No. 3250 of 2006, decided on 02.08.2006.

Consequently, in view of the above, the writ petition is allowed and the respondents are directed to reconsider the matter in the light of what has been stated hereinabove. The impugned order is set aside. Needful be done as expeditiously as possible within a period of three months from the date of receipt of certified copy of the order.

05.11.2015

mamta

(MAHESH GROVER)

JUDGE