

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

CWP No. 3598 of 2013 (O&M)

Date of decision : 8.1.2015

Ram Kishan

.. Petitioner

vs

Chief Secretary, Government of Haryana and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Pawan Kumar Mutneja, Advocate, for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General, Haryana.

Rajesh Bindal, J.

The petitioner, who retired from service on 30.11.2005, has filed the present petition claiming the benefits of Second Higher Pay Scale on completion of 20 years of regular satisfactory service in terms of the instructions issued by the Government on 8.2.1994.

Learned counsel for the petitioner submitted that the petitioner, who is non-matriculate employee joined the Irrigation Department on the post of Artificer on 15.3.1971. With effect from 1.1.1986, he was getting the pay scale of ₹ 950-1150. The scales were revised with effect from 1.5.1990 where a distinction was made for matriculate and non matriculates. The petitioner being a non matriculate was placed in the pay scale of ₹ 950-1500, whereas the matriculates were granted higher pay scale of ₹ 1200-2040. As despite repeated representations, the petitioner was not granted the relief, CWP No. 11306 of 1993 was filed, which was disposed of on 22.1.2010 granting the petitioner revised pay scale of ₹ 1200-2040 with effect from 1.5.1990. As the relief in terms thereof was not granted, the petitioner filed COCP No. 515 of 2011 Ram Kishan vs Smt. Urvashi Gulati and others, which was disposed of on 15.9.2011 giving liberty to the petitioner to move this Court in case any relief still remains as the stand taken by the contemnors therein was that the pay of the petitioner has been re-fixed and arrears paid. The submission is that once the pay of the

petitioner has been revised with effect from 1.5.1990 in terms of the instructions issued by the Government on 8.2.1994 on completion of 20 years of service in case no promotion is granted, an employee is entitled to next higher pay scale. Though petitioner was eligible to get that benefit, however, was not granted when his pay was refixed in the revised pay scale in terms of earlier judgment of this Court in his favour.

On the other hand, learned counsel for the State submitted that in terms of the Haryana (Abolition of Distinction of Pay Scale Between Technical and Non-Technical Posts) Act, 2014, the petitioner is not entitled to any relief at this stage. He further submitted that the issue regarding claim of higher standard scale in terms of instructions dated 8.2.1994 is sought to be raised in the year 2013. The aforesaid relief could be claimed by the petitioner when his earlier writ petition was disposed of. In that writ petition, he only prayed for grant of revised pay scale but never raised any relief of consequential benefits. Hence, at this stage, that too, after more than seven years of retirement, the petitioner cannot be permitted to raise the aforesaid plea by filing the present writ petition in the year 2013.

Heard learned counsel for the parties and perused the paper book.

The undisputed facts on record are that the petitioner earlier filed CWP No. 11306 of 1993 in this Court seeking revised pay scale of ₹ 1200-2040 despite being non-matriculate, with effect from 1.5.1990. The same was allowed on 22.1.2010. The petitioner retired from service on 30.11.2005. As the benefits to the petitioner in terms of the judgment in his favour were not granted, he filed COCP No. 515 of 2011, which was disposed of on 15.9.2011 as the pay of the petitioner was refixed vide order dated 15.2.2011. Two years thereafter, the petitioner filed the present petition stating that he was able to get the Haryana Government instructions dated 8.2.1994 in terms of which an employee on completion of 20 years of satisfactory service as on 1.1.1994 was entitled to get next higher pay scale in case he did not get any promotion or promotional scale. It is sought to be claimed that the petitioner is entitled to the revised scale, however, I do not find any merit in the submissions made. The relief, if any, in terms of the instructions dated 8.2.1994, accrued to the petitioner when the aforesaid instructions were issued. It provides for grant of higher standard pay scale.

CWP No. 11306 of 1993 filed by the petitioner was already pending at that time where the petitioner was seeking revised pay scale. The same was disposed of on 22.1.2010 wherein the petitioner was granted the relief of revised pay scale with effect from 1.5.1990. Though at that time the relief in terms of instructions dated 8.2.1994, if admissible to the petitioner, was available, but was never claimed by him or was not granted by this Court as nothing is evident from the judgment of this Court, hence, the same cannot be permitted to be raised at this belated stage, seven years after the petitioner had retired from service.

For the reasons mentioned above, the present writ petition is dismissed.

8.1.2015
vs

(Rajesh Bindal)
Judge