

In the High Court of Punjab and Haryana at
Chandigarh.

CWP No.976 of 2015
Date of decision : 14.10.2015

Tarlochan Kaur

Petitioner

Vs.

State of Punjab and others

Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL.

Present:- Mr. B.S. Sidhu, Advocate,
for the petitioner.

Mr. Ashish Sharma, Addl. A.G., Punjab,
for respondent No. 1.

Mr. S.S. Rangi, Advocate,
for respondents No. 2 and 3.

LISA GILL, J. (Oral)

Challenge in this writ petition is to order dated 30.05.2014 passed by the Secretary to Government of Punjab, Department of Agriculture, Chandigarh vide Annexure P-10 as well as order dated 22.02.2012 passed by the Secretary, Punjab Mandi Board, SAS Nagar vide Annexure P-9.

Brief facts of the case are that the petitioner was appointed as Clerk on 11.07.1996 on compassionate grounds with Market Committee, Kharar. She was promoted to the post of Auction Recorder on 11.05.2000 vide

Annexure P-1. However, vide order dated 08.07.2005 (Annexure P-2), she was unceremoniously, without any show cause notice reverted to the post of Clerk on the ground that there are only eight sanctioned posts of Auction Recorder. Petitioner represented against her unfair reversion.

It was brought to the notice of the authorities that as per the Punjab Market Committee (Class-III) Service Rules, 1989, the cadre strength of Auction Recorder at Market Committee, Kharar is 10 and not 8. On realising the factual mistake, corrective measure was taken and vide order dated 26.03.2007 (Annexure P-5) petitioner again stood promoted to the post of Auction Recorder. Thereafter, Punjab Mandi Board vide letter dated 16.02.2011 (Annexure P-3) directed the regularisation of the period of reversion of petitioner - Smt. Tarlochan Kaur. Market Committee, Kharar passed resolution No. 4 dated 08.07.2011 (Annexure P-7) recommending that monetary benefits due to her be released to the petitioner. This resolution was annulled by the Secretary, Punjab Mandi Board on 22.02.2012 (Annexure P-9) while observing that the Chairman of the Market Committee, Kharar has wrongly recommended release of arrears to the petitioner against rules.

Revision petition filed by the petitioner was dismissed by the Secretary to Government of Punjab,

Department of Agriculture, Chandigarh on 30.05.2014
(Annexure P-10). It was observed as under:-

“I have heard the arguments advanced by the both the counsels very carefully and gone through the record available on file. It is admitted fact that petitioner was promoted to the post of Auction Recorder on 11.05.2000 and she was reverted by MC Kharar to the post of Clerk on dated 08.07.2005 by mentioning that there was only 8 posts of Auction Recorder in the budget for the year 2005-06 whereas there were 10 posts of Auction Recorder in the service Rules of Punjab Market Committee Service Rules. Moreover, Market Committee regularized her service from 08.07.2005 as Auction Recorder. It is also an admitted fact that petitioner when demoted to the post of Clerk was working at the post of Clerk and she was drawing the salary of post of Clerk. Market Committee, Kharar, thereafter promoted her as Auction Recorder on 26.03.2007 and gave her benefits of seniority from back date. The benefits of seniority and monetary benefits are two different things,

benefits which are not necessary interlinked.

Since during the impugned period she worked on the post of lower level of responsibility, therefore, she is not entitled to the monetary benefits of higher responsibility post.”

Having heard learned counsel for the parties, it is apparent that the petitioner was reverted vide order dated 30.05.2014 without any fault on her part. It was due to a mistake committed by the Department that reversion took place. Mistake on the part of the Department is duly admitted and there is no denial of the same. It is further not denied that vide resolution No. 14 dated 03.03.2011 promotion of the petitioner w.e.f. 11.05.2000 was regularised but for release of monetary benefits, matter was sent to the Board. On considering the circumstances, the Board vide letter dated 11.05.2011 (Annexure P-6) observed that the Market Committee itself was the competent authority to release the balance to the official who was reverted due to mistake of the committee official, therefore, proceedings should be undertaken to release the balance due to her.

Thus, once it is admitted that the petitioner was at no fault and she was denied the opportunity to work on the

said post, it is not open to the respondents to take a stand that monetary benefits are not to be paid to the employee on the principle of “no work no pay”.

It has been held in 1991 AIR (SC) 2010 *Union of India Vs. K.V. Jankiraman* that principle of “no work no pay” is not applicable to cases where employee is willing to work but is kept away by the authorities for no fault of his. In case, argument of learned counsel for the respondents is accepted, it would amount to awarding a premium on an unjustified act of the respondents themselves due to which the aberration occurred. Impunged orders dated 30.05.2014 and 22.02.2012 are clearly unjustified, hence set aside.

Keeping in view the aforementioned, this writ petition is allowed. Entire monetary benefits due to the petitioner for the period 08.07.2005 to 26.03.2007 be released to her within a period of one month from the date of receipt of certified copy of this order.

(LISA GILL)
JUDGE

October 14, 2015.
Anoop