

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.652 of 2015 (O&M)
Date of Decision: April 30, 2015

Sukhdarshan Saini

.....Appellant

versus

The Punjab State Industrial Development Corporation Limited
and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.A.S.Narang, Advocate, for the appellant.

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- 1· *Whether Reporters of Local papers may be allowed to see the judgment?*
- 2· *To be referred to the Reporters or not?*
- 3· *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

This letters patent appeal assails the order dated 13.02.2015 whereby learned Single Judge has turned down the appellant's claim for the grant of pay-scale of Rs.570-1080 upto 31.12.1985 and then to further revised the same to Rs.1800-3200 w.e.f. 01.01.1986.

[2] The appellant joined the Punjab State Industrial Development Corporation as Accounts Clerk and was later on promoted as Senior Assistant (Accounts). His case is that the State of Punjab revised the pay-scale of its employees w.e.f. 01.01.1978 on the basis of the recommendations made by the Punjab Pay Commission in the year 1978. The respondent-

Corporation also resolved to follow the Punjab Government pattern for the revision of pay-scales of its employees working against non-ministerial posts. Consequently, the benefit of revised pay-scale was extended on the pattern of the Punjab Government for various posts but no such benefit was granted to Accounts Clerks on the premises that there was no corresponding post of the same nomenclature in the State of Punjab.

[3] The appellant thus contended that had there been suitable revision in the pay-scales of Accounts Clerks, he would have been entitled to pre-revised pay-scale of Rs.570-1080 w.e.f. 18.05.1984 and then to Rs.1800-3200 w.e.f. 01.01.1986.

[4] Learned Single Judge has turned down the above-mentioned claim observing that as per the resolution passed by the Corporation, non-ministerial staff was to be accorded parity with the Punjab Government pay-scales “as then existing”. This resolution cannot be extended to mean that any restructuring of the staffing pattern as effected by the Punjab Government be similarly carried out in the respondent Corporation as well. It has been further observed that there was no corresponding post of Accounts Clerks in the Punjab Government qua which the appellant could claim parity.

[5] It appears that the revised pay-scale of Rs.1800-3200 was made admissible to Senior Assistants (Accounts) which is a promotional post from the post of Accounts Clerk. Consequently, the learned Single Judge has observed that the Accounts Clerks cannot claim the pay-scale of promotional post.

[6] We have heard learned counsel for the appellant at a considerable length and gone through the relevant

resolutions passed by the Corporation in the matter of introducing the pay pattern or granting revised pay-scales to its employees in the non-ministerial cadre.

[7] It is true that the Corporation took a conscious decision to follow the pay structure on the Government pattern but such a pay structure could be adopted in respect of those posts only which had identical nomenclature in Punjab Government also. As no corresponding post in the case of Accounts Clerks was found in existence in the State Government, the pay-scales of Accounts Clerks in the Corporation were not modified on the afore-said analogy. Learned Single Judge has rightly declined to interfere with as no mandamus can be issued by a Writ Court to direct the creation of post or to grant a specific pay-scale to Accounts Clerks. Such an exercise pre-dominantly falls within the ambit of Executive and goes beyond the scope of judicial review.

[8] We are, thus, unable to interfere with the order passed by learned Single Judge.

[9] Faced with this, learned counsel for the appellant points out that they were granted the pay-scale of Rs.1500-2640 w.e.f. 01.01.1986 which was further revised to Rs.1800-3200 by the State Government vide notification dated 15.06.1990. However, the said revised higher pay-scale has also not been granted to the appellant. Since neither this issue was raised before the learned Single Judge nor it has been declined vide the order under appeal, we grant liberty to the appellant to firstly raise such a claim before the Competent Authority and in case his grievance is not fully redressed, he shall be at liberty to approach the appropriate forum.

With liberty aforementioned, the appeal stands disposed of.

[SURYA KANT]
JUDGE

April 30, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE