

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

Date of decision: 03.08.2016

CWP No.3337 of 1992

Dilbagh Singh

...Petitioner

Vs.

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.A.Sheoran, Advocate, for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

RAJIV NARAIN RAINA, J.

The following effective prayers have been made in this petition:

- A. Writ in the nature of mandamus directing the respondents to grant the petitioner:
 - (a) Revised pay scale of Rs.525-1050 (TS) Rs.600-1100 (Selection Grade) with effect from 1st April, 1979 and the corresponding further revised pay scale of Rs.1400-2000 w.e.f. 01.01.1986 and the consequential arrears of pay.
 - (b) Any other appropriate writ order, or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also issued.

The petitioner stakes his monetary claim to pay scale and revision thereof respecting the post of Poultry Inspector on which promotional post he worked. The petitioner says that the pay revision did

not touch the post of Poultry Inspector, as the nomenclature did not figure in the pay revision notification issued by the Government. There was an omission.

The State rebuts this assertion to contend that the pay scale of the post of Inspector was revised from Rs.160-400 to Rs.525-900 with selection grade Rs.600-1100 for 20% posts vide notification dated 29.02.1980, which covers the nomenclature of Poultry Inspectors vide Annex R-1. The State maintains in its written statement that the minimum of pay in the revised scale of Poultry Inspector and Stock Assistant and rate of increment up to Rs.900 is the same. The petitioner did not reach the maximum of the pay scale when the scale of the post was further revised w.e.f. 01.01.1986. Thus, the petitioner did not suffer any monetary loss. The anomaly in the pay scale of Poultry Inspector and Stock Assistant, to which latter post the petitioner was substantively promoted to, was only in respect of the maximum of the pay scale. Both the posts carried the minimum of scale of Rs.525/- with same rate of increment with selection grade of Rs.600-1100 on 20% posts. The parent Department sent a proposal to the State Government to revise the pay scale of Poultry Inspector from Rs.525-900 to Rs.600-1100, but the same was not accepted by the Financial Commissioner -cum- Secretary to Government of Haryana, Animal Husbandry Department responding to the Director, Animal Husbandry, Haryana, Chandigarh letter dated 29.04.1982. Vide memo dated 07.06.1982, the Financial Commissioner expressed his regret to accept the proposal. In view of the position explained obtaining on 07.06.1982, the petitioner has no case. He has not challenged the order rejecting the proposal either in this petition or by way of a separate writ petition or before the administration

and, therefore, the prayers, as reproduced above, cannot be granted by issuing a writ of mandamus.

As a result, the petitioner has no right for grant of revised pay scale of Rs.525-1050 (TS) Rs.600-1100 (Selection Grade) with effect from 1st April, 1979. It may be recorded that the petitioner retired from service on reaching the age of superannuation on 31.03.1992 and this petition was filed a month before the petitioner retired. The State in its reply has emphatically stated that no official junior to the petitioner was promoted earlier to him during service, which started as a Stock Assistant in 1956. The petitioner is incorrect when he says that the pay revision involved reduction in rank and status.

Challenge, if brought, against the order of the Financial Commissioner passed in 1982 would be highly belated and on this point, Ms. Shruti Goel Jain cites the decisions of the Single Judge in CWP No.13965 of 2010 titled 'Tarsem Pal Vs. Punjab State Power Corporation Limited & others' decided on 29.11.2012; CWP No.3627 of 2013 (O&M) titled 'Ved Parkash Goel Vs. State of Punjab & others' decided on 19.07.2013; CWP No.14489 of 2014 titled 'Shiv Kumar Gupta Vs. State of Haryana & others' decided on 25.08.2014 and Nathu Ram Sharma & another Vs. State of Punjab & others, 2015 (2) SCT 631, on question of delay and laches in the context of monetary claims arising from the service under the State. Having gone through the rulings, I would agree with the contention of Ms. Shruti Jain Goel that being a fiscal policy matter delay is relevant consideration to refuse writ. Nor would the Court travel beyond the Memo dated 07.06.1982 and pry it open of what should or should not have been the correct decision being a policy matter which is best left to experts of what the scale of pay and post should be.

No ground for interference is made out. The petition is accordingly dismissed.

[RAJIV NARAIN RAINA]
JUDGE

03.08.2016
Vimal

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>