

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

CWP No.17474 of 1999

Date of Decision:01/02/2016

Ashok Kumar

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: None for the petitioner.

Ms. Shruti Jain Goyal, A.A.G. Haryana.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

No one appears on behalf of the petitioner. The position was same on the last date of hearing as well.

Learned counsel for the State has been heard.

The petitioner as a fitter coolie serving the respondent-State of Haryana, through the present petition, on the strength of notification dated 23.8.1990 issued by the State of Haryana claims the pay scale of Rs.1200-2040.

The aforesaid notification on which the petitioner bases his claim stands withdrawn through an Act promulgated by the State of Haryana known as the Haryana (Abolition of Distinction of Pay Scale Between Technical and Non-Technical Posts) Act, 2014 (For short “the 2014 Act”).

Section 4 of the 2014 Act which is relevant is reproduced below:

“4. The entry at serial number 3 under 'common category posts' in the annexure to instructions bearing No.1/54/2PR(FD)-82,

dated 30.03.1982, at serial number 40 in annexure A to instructions bearing No.6/23/3PR(FD)-88 dated 23.08.1990, No.6/23/3PR(FD) 88, dated 26.07.1991 and No.6/83/2009-3PR (FD), dated 9.8.2010 are hereby withdrawn and shall be deemed to have been withdrawn with effect from the date of their coming into force:

Provided that all those persons who had already been granted unconditionally the up-graded pre-revised pay scale and drawing the same before date of notification of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Ordinance, 2013 (Haryana Ordinance No.6 of 2013) viz the 10th December, 2013 shall continue to draw these pay scales, as a measure personal to them.”

The 2014 Act has come into force retrospectively with effect from 1.2.1981.

In view of the aforesaid, the petitioner's claim to the pay scale of Rs.1200-2040 on the ground that the petitioner holds a technical post and on the basis of notification dated 23.8.1990 on the promulgation of the 2014 Act is no longer available.

Accordingly, the present petition is dismissed.

However, liberty is granted to the petitioner, if so advised, to challenge the vires of the offending provision of the 2014 Act.

**(DEEPAK SIBAL)
JUDGE**

**01.02.2016
rajeev**