

In the High Court of Punjab and Haryana at Chandigarh

CWP-9261-1995

Date of Decision:19.01.2016

MADAN LAL SHARMA(Deceased) through his LRs

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Khushagra Mahajan, Advocate for the petitioner.
Mr.Ravi Partap Singh, Assistant Advocate General,
Haryana

SABINA, J.

This petition was filed by petitioner -Madan Lal (who died during the pendency of the petition and his legal representatives were brought on record) challenging order dated 13.10.1994 (Annexure P4) passed by the Industrial Tribunal-cum-Labour Court.

The case of the petitioner was that, he was,initially, appointed as Cutting and Tailoring Instructor in the year 1964 with respondents No. 2 and 3. Petitioner was confirmed in the year 1974 in the grade/pay-scale of ₹160-400. The posts of junior and senior instructors were abolished by the State and a new grade was allotted to the Instructors i.e.₹ 225-500 and petitioner was placed in the grade of ₹ 270/- on 25.11.1975. Thereafter, State issued instructions that irrespective of their trades, pay of the Instructors be revised

with effect from the year 1962. However, petitioner was not granted the revised grade.

Respondents No. 2 and 3, in their written statement, averred that the letter dated 15.3.1982 was not applicable to the case of the petitioner as he had shifted from Industrial Training Institute cadre to women wing cadre. The benefit claimed by the petitioner was not given to any employee in the cadre of the petitioner in terms of letter dated 15.3.1982.

On the pleadings of the parties, following issues were framed by the Industrial Tribunal-cum-Labour Court:-

- "1.Whether the application is not maintainable as alleged in para No.1 of the preelimination objection?
- 2.Whether the applicant is not a workman?
- 3.Whether the respondent is not an industry?
- 4.Whether the application is barred by limitation?
- 5.Whether this court has no jurisdiction?
- 6.Whether the applicant is entitled to the claimed amount.

Parties led their evidence in support of their respective pleas.

The claim of benefit of revised pay scale sought by the petitioner was dismissed vide order dated 13.10.1994, Annexure P4. Hence, the present petition.

Learned counsel for the petitioner has submitted that the petitioner was entitled to revision of his grade in terms of letter dated 15.3.1982 Annexure P1. In support of his arguments, learned counsel has placed reliance on the decision of this Court in CWP

No.6136 of 1988 (Anneuxre P5).

Learned State counsel, on the other hand, has opposed the petition and has submitted that the petitioner was shifted to Industrial Training Institute (Women wing) with effect from 1.8.1973 when separate cadre was carved out. Hence, the petitioner was not entitled to revision of pay scale in terms of letter dated 15.3.1982

In the present case, the facts are not in dispute. Admittedly, petitioner was initially appointed as Cutting and Tailoring Instructor on 21.8.1964 in the grade of ₹120-200. Thereafter, single cadre of Instructors was formed in the grade of ₹225-500.

MW1 Kamla Kumari deposed that the petitioner was shifted to Industrial Training Institute (Women Wing) with effect from 1.8.1973 when separate cadre was carved out.

Thus, before the letter dated 15.3.1982, revising the grade of instructors in ITI with effect from 1962 was issued, petitioner already stood shifted to Women Wing Industrial Training Institute i.e. an independent cadre. It has been further noticed by the Industrial Tribunal-cum-Labour Court that the petitioner had been promoted in the grade of 700-1250 on 18.12.1980. while working in the women wing, whereas, the Instructors senior to the petitioner working in ITI were in the grade of ₹525-1050 as on 18.12.1980.

Since in the present case, the petitioner was part of a separate cadre i.e. Women Wing Industrial Training Institute, he could not claim benefit of letter dated 15.3.1982 revising the grade of Instructors Industrial Training Institute with effect from 1962 which was a separate cadre.

In the facts and circumstances of the present case, the judgment passed by this Court (Annexure P5) fails to advance the case of the petitioner as it is based on different facts. Hence, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

January 19, 2016
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(SABINA)
JUDGE