

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

**C.W.P No. 9356 of 2004
Date of decision : 06.04.2016**

Raj Pal

....Petitioners

versus

HUDA & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Pawan Kumar, Advocate for
Mr. Amit Chopra, Advocate
for the petitioners.

Mr. Rajesh Gaur, Advocate
for respondent Nos. 1 to 3.

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

RITU BAHRI , J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing letter dated 28.05.2004, vide which the pay scale of Rs.1200-2040, which was granted to the petitioner w.e.f 01.05.1990 has been withdrawn.

The facts which are not disputed are that the petitioner was appointed as Water Pump Operator on 18.12.1987 through employee exchange on work charge basis in the pay scale of 950-1400. The pay

scales of the employees working with State of Haryana was revised w.e.f 01.01.1986. Thereafter, State of Haryana issued notification dated 23.08.1990 whereby it was decided that the employees having the prescribed qualification of Matric with I.T.I certification to whom the pay scale of Rs.950-1400 was granted w.e.f 01.01.1986 be granted the pay scale of Rs.1200-2040 w.e.f 01.05.1990. Accordingly, respondent No. 2 issued orders granting the pay scale of Rs.1200-2040 w.e.f 01.05.1990. The services of the petitioner was regularized w.e.f 03.08.1993 in the pay scale of Rs.950-1400 in light of instructions dated 04.08.1993 and approval accorded by Hon'ble C.M. Cum Chairman HUDA, vide order dated 04.06.1993 and Haryana Bureau of Public Enterprises endst dated 20.07.1993. Thereafter, on 02.04.2004 after a period of twelve years, respondent No. 3 issued show cause notice to the petitioner stating therein that the pay scale of Rs.1200-2040 has wrongly been granted to him and why this pay scale be not withdrawn and recovery of Rs.1,49,407/- be effected from the petitioner. The petitioner submitted his reply dated 29.04.2004. Subsequently, vide letter dated 28.05.2004 the pay scale of Rs.1200-2040, which was granted to the petitioner w.e.f 01.05.1990 has been withdrawn.

During the pendency of the writ petitioner, petitioner filed order dated 21.02.2012 (P-11) whereby HUDA decided to grant the benefit of pay scale of Rs.1200-2040 to even those employees whose

qualification was not matric with ITI but were appointed prior to 01.05.1990.

The question for consideration before this Court is that since the services of the petitioner was regularized w.e.f 03.08.1993, his case is covered by the order 21.02.2012 (P-11)

In this order, it has clearly been mentioned that in pursuance of instructions issued by Financial Commissioner and Principal Secy to Government of Haryana, Finance Department on 09.08.2010, clarification dated 06.10.2010 and as per approval dated 13.01.2012 of the Hon'ble C.M., Haryana-cum-Chairman of the Authority, the benefit of pay scale of Rs.1200-2400 is hereby granted notional w.e.f 01.05.1990 and actually from 09.08.2010 to those 173 employees whose qualification was not Matric with ITI and they were appointed prior to 01.05.1990 on technical post qualifications.

However, petitioner in the present case was appointed as Water Pump Operator on 18.12.1987 on work charge basis in the pay scale of 950-1400 and his services were regularized w.e.f 03.08.1993 .

Reference at this stage can be made to notification dated 23.08.1990 which was issued as certain discrepancies in the pay scales revised w.e.f 01.01.1986 were pointed out and the Government after examining the matter has decided to modify the pay scale of some posts w.e.f 01.05.1990 . The relevant portion of notification reads as

under:-

40(a) General Recommendation

	<i>Existing pay scales as on 01.01.86</i>	<i>Modified pay scales w.e.f 01.05.1990</i>
<i>regarding technical post in various</i>	<i>750-940</i>	
<i>departments for which minimum</i>	<i>775-1025</i>	
<i>qualification prescribed is only</i>	<i>800-1150</i>	<i>1200-2040</i>
<i>ITI certificate/diploma from</i>	<i>950-1400</i>	
<i>polytechnic without insistence</i>	<i>950-1500</i>	
<i>on matric.</i>		

In view of the above instructions, the case of the petitioner can be considered in view of order dated 21.02.2012.

Accordingly, the writ petition stands disposed of and direction is issued to the respondents to pass appropriate orders after considering the case of the petitioner, as per office order dated 21.02.2012 (P-11) taking the date of his initial appointment as 18.12.1987 . This exercise shall be completed within a period of three months from the date of receipt of certified copy of this order. Compliance report be sent to this Court as well.

(RITU BAHRI)
JUDGE

06.04.2016

G Arora