

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

CWP No.12024 of 2013 (O&M)

Date of decision : September 16, 2016

Baldev Singh Bhatia

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.K. Arora, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner, namely Baldev Singh Bhatia, who retired as Deputy Circle Education Officer, Jalandhar, has filed the present writ petition for quashing the order dated 23.07.2012 (Annexure P-7) and order dated 26.03.2013 (Annexure P-10), whereby the claim of the petitioner for correction in his pay fixation has been declined. Petitioner prays that he should be granted the benefits of Rule 7 of the Revised Pay Rules 1998, which was notified by the Punjab Government, vide Notification dated 16.01.1998 and also grant the benefit of bunching increments, in terms of proviso of the Rule 7 along with all consequential benefits.

Petitioner along with other employees had already approached this Court by way of filing of CWP No.12400 of 1989 titled as ***“Raj Kumar Sachdeva and others vs State of Punjab”***, claiming revision of pay scale w.e.f. 01.11.1971 instead of 16.07.1975 along with consequential benefits. The said writ petition was decided, in terms of CWP No.2208 of 1989, titled as ***“Lekh Raj Khara and others vs State of Punjab and others”*** on 24.03.2009.

Since the said order was not implemented, therefore, the petitioner filed COCP No.1888 of 2011 and after the notice of motion, the pay of the petitioner was revised w.e.f. 01.11.1971 instead of 16.07.1975, vide a speaking order dated 08.11.2011 (corrigendum dated 21.11.2011) {Annexure P-3}.

However, while re-fixing the pay, the benefit of proviso (ii) of the Rule 7 of the Punjab Civil Services (Revised Pay) Rules, 1998 (in short 'the Rules 1998') was not granted to the petitioner. Consequently, wrong pay fixation was made. The petitioner made representation dated 21.12.2011 (Annexure P-4) before the authorities for the correct pay fixation, but to no effect.

While disposing of said COCP on 17.01.2012 (Annexure P-5), this Court directed the respondents to consider the representation dated 21.12.2011 (Annexure P-4) of the petitioner and pass appropriate order as early as possible preferably within four months.

Now, the impugned orders have been passed, declining the benefit of Rule 7 of the Rules 1998.

The State in its reply has taken the stand that pay of the petitioner has been rightly fixed and the impugned orders have been correctly passed. The pay has been fixed, in terms of the Rule 7 of the Rules 1998.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Rule 7 of Rules 1998 is reproduced as under:

“7. Fixation of Pay in the Revised Scale:-

The pay of a Government employee who opts or

is deemed too have opted for the revised scale in terms of the provisions or these rules shall, unless in any case the Government by special order otherwise directs, be fixed in the following manner, namely:-

- (i) an amount representing forty percent of the basis pay in the existing scale shall be added to the “existing emoluments” of the employee; and*
- (ii) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage next above the amount of the existing emoluments so computed, if it falls between two stages:*

Provided that :-

- (a) if the minimum of the revised scale is more than the amount so arrived at, the pay shall be fixed at the minimum of the revised scale;*
- (b) if the amount so arrived at is higher than the maximum of the revised scale, the amount in excess of the maximum of the revised scale shall be treated at personal pay which shall be absorbed in future increments and shall be reckoned as pay for all purposed;*

Provided further that where in the fixation of pay, the pay at more than three consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of those employees who are drawing pay beyond the first three consecutive stages in the existing scale shall be stepped up by the grant of increment(s) in the revised scale in the following manner, namely:-

- (a) for the Government employees drawing pay from the fourth up to the sixth stage in the existing scale:
by on increment*

Petitioner claims the benefit of proviso of Rule 7 of the Rules 1998, which laid down that wherein fixation of pay, the pay at more than three consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of those employees who are drawing pay beyond the first three consecutive stages in the existing scale shall be stepped up by the grant of increment(s) in the revised scale in the following manner, namely:- for the Government employees drawing pay from the fourth up to the sixth stage in the existing scale by granting one increment.

The State has produced the pay fixation chart of the petitioner (Annexure R-1). The relevant extract from the disputed stage is as under:

S. N.	Date	Old/ Existing Scale	Pay in the old/ existing scale	No. of stages in the old/ existing scale	New/ Revised pay scale	Pay in the new/ Revised scale	Remarks
6	1.1.1995	2410-70-2550-75-3000-100-4000	3300	5	----	----	Annual Increment
7	31.12.1995/ 1.1.1996	2410-70-2550-75-3000-100-4000	3300	5	10025-275-10300-340-12000-375-13500-400-15100	10300	Pay fixed in the revised scale w.e.f. 1.1.1996 including benefit of one Inc. of Bunching
8	1.1.1996	2410-70-2550-75-3000-100-4000	3400	6	10025-275-10300-340-12000-375-13500-400-15100	10300	Retired on 31.05.1997 after one year re-employment on account of state award

Petitioner claims that the same is factually incorrect and claims that Circle Education Officer, Jalandhar had fixed the pay vide order dated 27.02.2012 (Annexure P-13), wherein regarding the disputed stage, the benefit of one increment was granted. The relevant part of the same is as under:

<i>Sr. No.</i>	<i>Date</i>	<i>Previous Pay</i>	<i>New Pay</i>	<i>Remarks</i>
40	01/01/95	3300	3300	Annual Increment
41	01/01/96	(3400) 10300	(3400) 10300	Revised pay scale
42	01/01/96	(3400) 10300	(3400) 10640	8 th stage in the old scale as per Rule 7 (ii) B.
43	01/01/97	(3400) 10300	(3400) 10640	Retired on 31.05.97 after one year on account of re-employment given due to State Awardee

Learned counsel for the petitioner has drawn the attention of this Court to order dated 09.02.2012 (Annexure P-12), wherein pay of Sadhu Singh Dhillon, Deputy District Education Officer was fixed, who was getting the pay of ₹3,100 in the old scale as on 01.01.1996 and his pay was fixed at the minimum scale of ₹10,025 but by bunching it up, it was stepped up to ₹10,300/-.

However, the petitioner was getting the pay of ₹3,300 on 01.01.1995 and ₹3,400/- on 01.01.1996 and the equivalent scale was ₹10,300/-. Therefore, without granting the benefit of said proviso to the Rule 7 of the Rules 1998, the officer was bunched up to the minimum scale of ₹10,300/-.

As such, the pay of the petitioner was to be stepped up by giving one increment. In this way, this Court finds that the Circle Education

Officer, Jalandhar, has rightly fixed the pay and that the order (Annexure R-1) is incorrect. In fact, mischief in Annexure R-1 has been done to the effect that the pay of the petitioner on 01.01.1995 was ₹3,300/- and in the next serial number the pay on 31.12.1995/01.01.1996 is shown as ₹3,300/-, whereas it should have been ₹3,400/- w.e.f. 01.01.1996. In Annexure R-1, serial No.7 was unnecessary created by showing ₹3,300 as on 31.12.1995/01.01.1996. After 01.01.1995, the pay should have been ₹3,400/-. Therefore, this Court finds that the Circle Education Officer, Jalandhar, has correctly fixed the pay vide Annexure P-13.

In view of what has been discussed above, the impugned orders are hereby quashed. The respondents are directed to fix the pay of the petitioner as per letter dated 27.02.2012 (Annexure P-13) of the Circle Education Officer, Jalandhar and accordingly grant the consequential benefits also. Needless to say that the retrial benefits be also revised. Needful be done within three months from the date of receipt of certified copy of this order.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

September 16, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes