

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

**CWP No.1248 of 2013 (O&M)
Date of decision: 25.07.2016**

Amrik Singh

..Petitioner

Versus

The State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Namit Kumar, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab
for the respondents- State.

Daya Chaudhary, J. (Oral)

The grievance of the petitioner in the present writ petition is that he was promoted from the post of Divisional Superintendent to Circle Superintendent and the pay scales for both the posts were the same whereas the duties and responsibilities of the promoted post were of higher importance. The petitioner was granted the benefit of one additional increment as per instructions of State Government dated 20.07.2011. Subsequently, the pay of the petitioner was refixed and pension was also revised w.e.f. January 2012 to November 2012. Thereafter, vide order dated 16.11.2012 (Annexure P-5), the said benefit of one additional increment was ordered to be withdrawn, which is subject matter of challenge in the present writ petition.

Learned counsel for the petitioner submits that the petitioner is entitled to the benefit of one additional increment as nature of duties and responsibilities of the post of Circle Superintendent were of higher

importance. While passing the impugned order for withdrawing the benefit of one additional increment, it has been mentioned that the petitioner did not give option before the date fixed but in the written statement, contradictory stand has been taken that the petitioner was not entitled for the aforesaid benefit as both the posts were carrying the same pay scales. Learned counsel further submits that while passing the impugned order for withdrawal of benefit, the petitioner was also not given any opportunity of hearing. He has also relied upon the manual of orders where the duties of both the posts have been specified. It has also been submitted by learned counsel for the petitioner that the similarly situated employees have also been granted benefit of one additional increment vide orders dated 17.11.2011 (Annexure P-9) and 04.07.2012 (Annexure P-10). Learned counsel for the petitioner has also relied upon judgment of this Court in **Jitu Ram and others vs. State of Punjab and another, 2012(4) SCT 708** as well as judgment of Hon'ble the Apex Court in **State of Punjab and others etc. vs. Rafiq Masih (White Washer) etc., 2015(1) RSJ 177** in support of his contentions.

Learned State counsel opposes the submissions made by learned counsel for the petitioner on the ground that both the posts were carrying the same pay scale and there was no reason to give one additional increment when nature of duties and responsibilities is the same. Learned State counsel has also relied upon judgment rendered by this Court in **CWP No.16968 of 1995** titled as **Satish Kumar and others vs. State of Punjab and others**, decided on 20.02.2013 where same issue was there whereas learned counsel for the petitioner submits that the facts of this judgment are

Heard arguments of learned counsel for the parties and have also perused the impugned order and other documents available on the file.

Admittedly, while declining the claim of the petitioner, it has been mentioned in the impugned order that the petitioner gave his option after expiry of required period of three months whereas in the written statement, different stand has been taken by the State that the petitioner is not entitled for additional increment as both the posts are carrying the same pay scale. This issue was subject matter of challenge in **Satish Kumar's case (supra)** wherein it was mentioned that the posts of Divisional Superintendent and Circle Superintendent were merged and both the posts were given the same pay scale. It was also held in that judgment that the provisions of Rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I are not applicable in case of parity of post. The benefit was given by considering both the posts differently as also the higher duties and responsibilities. Two contradictory stands have been taken in the impugned order as well as in the written statement filed to the writ petition. The issue was also similar in CWP No.16968 of 1995 and the same has not been taken into consideration.

Accordingly, keeping in view the facts as mentioned above, the present writ petition is disposed of with a direction to respondent No.2 to reconsider the case of the petitioner in view of the decision rendered in **Satish Kumar's case (supra)** as well as by considering the nature of duties and responsibilities of the said posts and also that other similarly situated employees have been granted benefit.

In case, the petitioner is found to be entitled for the benefit, the

same be granted to him and if he is not found to be entitled, then a speaking

order by giving reasons be passed.

In case, any adverse order is passed, the petitioner is at liberty to challenge the same.

Meanwhile, no recovery whatsoever be effected from the petitioner till the decision of his case by considering the reasons as mentioned above.

25.07.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether reportable	√ Yes/No