

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 5118 of 2009 (O&M)

Date of decision : 13-06-2016

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Baljeet Singh and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Mohnish Sharma, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana for respondents no.
1 to 3.

Mr. Abha Rathore, Advocate for respondent no.4.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

By way of the present writ petition, the petitioners are seeking the writ of certiorari for quashing the order dated 19.1.2009 (Annexure P-3), whereby respondent no.3 has rejected the claim of the petitioners for the grant of pay scale of Rs.1200-2040 at par with respondent no.4 despite the fact that respondent no.4 is junior to the petitioners.

Petitioner no.1 & 2 were appointed as Storemen w.e.f 16.7.1981

and 15.11.1979 respectively. Respondent no.4 was appointed as a Storeman

w.e.f 30.08.1983 much after the appointment of the petitioners to the said post. As per the seniority list, the petitioner have been shown senior to respondent no.4. In the seniority list petitioner no.1 is placed at Sr. No.22, petitioner no.2 is at Sr No.14 and respondent no.4 is placed at Sr. No.47. Despite the fact, that respondent no.4 was appointed much after the petitioner, the petitioners were drawing the basic pay lower than respondent no.4. In this regard, they made representations (Annexures P-1 and P-2) to respondent no.3. Thereafter a Civil Writ Petition No.16708 of 2008 was filed by the petitioners in this regard which was disposed of by this Court vide order dated 19.9.2008 by giving directions to the respondent no.3-General Manager, Haryana Roadways, Bhiwani to take a final decision on the representations submitted by the petitioners. Pursuant to the order passed by this Court, the competent authority vide order dated 19.1.2009 (Annexure P-3) rejected the representation of the petitioners. The reason given for grant of pay scale of Rs.1200-2040 to respondent no.4 was that he is ITI pass and the petitioners are not ITI pass. Hence, the petitioners cannot be granted the technical pay scale.

The stand taken in the written statement filed by the respondents is that the post of storekeeper is a non-technical post as per the Department Rules and the petitioners are not entitled for the technical pay scale of 1200-2040. Respondent no.4 has been granted the pay scale of 1200-2040 as he is having qualification of matriculation with ITI w.e.f 1.5.1990. The post of Store-man was declared as non-technical post by the Transport Commissioner, Haryana vide letter dated 12.10.1995 (Annexure R-2). The petitioners in this case were appointed before the year 1995 and respondent no.4 was getting the pay scale of Rs.1200-2040 from 1.5.1990 vide order dated 29.3.1991

(Annexure R-3) of the General Manager, Haryana. This order was revoked by the General Manager, Haryana Roadways, Delhi vide order dated 17.7.1991 (Annexure R-4). Rajender Pal challenged the order dated 17.7.1991 (Annexure R-4) by way of CWP No. 11018 of 1991, whereby operation of the impugned order was stayed. This writ petition was decided by this Court on 13.1.1994 in which the petitioners were directed to file the writ petition within three weeks. Upon this direction Rajender Pal Storeman, now storekeeper and 16 others petitioners filed CWP NO. 7909 of 1994 titled as Narender Singh and others vs. State of Haryana and others. Vide order dated 8.6.1994, the order passed by the General Manager, Haryana Roadways, Delhi for revocation of enhancement of salary was stayed and, thereafter, the General Manager, Haryana Roadways, Sonipat vide order dated 1.12.2000 gave pay scale of 1200-2040 w.e.f 1.5.1990 to Rajender Pal storeman now storekeeper. Regarding this matter, the Transport Commissioner, Haryana issued a letter and clarified the position as the post of storeman/Assistant Storekeeper/Storekeeper/Chief Store keeper are non technical posts vide letter dated 3.10.2002 and vide letter dated 2.4.2003, it was further said that no employee of the store is entitled for technical pay scale of 1200-2040.

A similar controversy came up for consideration before a Co-ordinate Bench of this Court in the case of **'Jai Pal vs. State of Haryana and Others'** bearing 'CWP No. 19547 of 2011' decided on 12.9.2012. It was observed in this judgment that till the coming into force of the 1995 Rules and the 1998 Rules, the service conditions of Class-III employees in the Transport Department of Haryana were governed by the Instructions issued by the Transport Commissioner from time to time. Petitioner possessed the qualifications for appointment to the post of Store-Man when he was initially

appointed. Prior to the coming into force of the statutory Rules, ITI qualification was not prescribed for the said post and for the first time, this qualification for recruitment to the post of storeman was introduced by the 1998 Rules. Under these Rules, the qualification now prescribed is Matric with ITI certificate in Motor Mechanic Trade. At the time of promotion of the petitioner as Assistant Store Keeper, the 1995 Rules have come into force, in Appendix B of the said Rules, the qualifications prescribed for the post of Assistant Store Keeper and that of Store Keepers are as follows:

<i>Sr. No.</i>	<i>Designation of Posts</i>	<i>Scale of Pay</i>
1	2	3
		Direct Promotional
18	Assistant Store keeper	(i) ITI certificate in Motor Mechanic (ii) Matriculation with Hindi (ii) Preference will be given to those having experience in handling automobile store or ledger in Government semi-Govt. Department or public undertakings (ii) Five years Experience as Storeman
15	Store keeper	(i) Matriculation with Hindi (ii) Three years experience on the post of Assistant Storekeeper

As per the aforesaid table for appointment to the post of Assistant Store Keeper by direct recruitment, the qualification prescribed is ITI certificate in Motor Mechanic with preference to those having experience in handling automobile store or ledger in Govt. Semi Govt. Deptt. or public

undertaking. However, for promotion to the post of Assistant Storekeeper, the requirement is Matriculation with Hindi and five years experience as Storeman. There is no direct recruitment to the post of Store Keeper and all the posts are to be filled up by promotion. Qualification prescribed for this post is Matriculation with Hindi and three years experience on the post of Assistant Store Keeper. The petitioners having been appointed as storeman were promoted as Assistant Storekeeper and thereafter as storekeeper but they were not having qualification of ITI. The persons junior to the petitioner had been granted the technical pay scale of 1200-2040 as they had been appointed directly as Assistant Storekeepers with the qualification of Matric with ITI. Their cases were covered under the notification dated 26.7.1991 and entry no.40 whereby modified pay scale for technical posts for which minimum qualification prescribed was Matric with ITI or only ITI were granted w.e.f 1.5.1990. As per the stand taken by the respondents, as per the 1998 Rules, the qualification prescribed for the post of Storeman is ITI certificate in Motor Mechanic Trade w.e.f 17.7.1998, the date of notification of the said Rules. Petitioners were appointed as Storeman prior to the coming into force of these Rules and, therefore are entitled to the pay scale of Rs.950-1400 and the persons junior to the petitioner had been granted technical pay scale w.e.f 1.5.1990 on the ground that they were possessing the qualification of matriculation with ITI certificate. At the same time it has been admitted by the respondents that there was no qualification prescribed for the post prior to the coming into force of the statutory Rules in the years 1995 and 1998. Despite that, the technical pay scale had been granted to respondent no.4 w.e.f 1.5.1990 only on the ground that he possessed the said technical qualifications. It was held by the Co-ordinate Bench that this cannot be made

the only basis for non-grant of the technical pay scale to the petitioners when they have been appointed on the post of storeman as per the qualifications applicable and prescribed for the post at the time of their appointment and the qualification of Matric with ITI certificate was prescribed for appointment subsequently. The writ petition was allowed and the petitioners were held entitled to the technical pay scale of 1200-2040 w.e.f the date their juniors have been granted the said pay scale and corresponding promotional pay scales from the dates of their promotion as Assistant Storekeeper and then Storekeeper.

The case of the petitioners is squarely covered by the judgment in **Jaipal's case (supra)**. Hence the present petition is also allowed in terms of the aforesaid judgment.

13-06-2016
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(**RITU BAHRI**)
JUDGE