

121

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1045 of 2016

Date of decision: January 19, 2016

Kuldeep Kumar

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S. Dadwal, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 21.07.2015 (Annexure P-8).

Learned counsel for the petitioner has submitted that the respondents had not correctly fix the pay of the petitioner at par with his junior.

Petitioner along with others had filed CWP No.1648 of 2013. The said writ petition was disposed of by this Court vide order dated 09.02.2015 and the said order reads as under:-

"The petitioners, who are 10 in number, have filed this petition for issuance of directions to the respondents to step up their pay at par with their juniors from the date their juniors were promoted keeping in view the decision of the Railway Board dated 04.02.2010.

Short reply has been filed on behalf of the respondents. In respect of seven petitioners, it has been stated that their pay has been stepped up and

no further relief is to be granted to them.

Learned counsel for the petitioner states that no doubt the pay of seven petitioners has been stepped up but while doing so, it has been equated with juniors, who have been awarded punishment of stoppage of one increment with permanent effect. Hence, he states that the pay of the petitioners is liable to be equated with the pay of their juniors, who have not been awarded such punishment.

Learned counsel for the respondents states that if these seven petitioners, and the three other petitioners who have not so far been granted the benefit of step up, separately submit a representation with details of their juniors within three months from today, the respondents would take a decision thereon within three months thereafter.

Disposed of in the above terms."

Thereafter, petitioner submitted representation Annexure P-7, wherein, it was prayed that the pay of the petitioner be stepped up at par with his junior namely Darshan Singh son of Dharam Singh, Head Constable and Harbhajan Singh son of Sadhu Singh, Head Constable, who were appointed as Constable in the year 1978 and promoted to the post of Head Constable on 07.09.2001. The representation filed by the petitioner was disposed of vide impugned order dated 21.07.2015 (Annexure P-8). The said order reads as under:-

"It is intimated by this letter that vide letter of the head office, bearing No.E-F/0/1/RPF/PL (ix)

dated 23.02.2010, the letter No.PC-V-2003/1/6/2 dated 04.02.2010 of Deputy Director Pay Commission, Pay Commission-V, Railway Board was received in this office in which it was ordered to step-up the pay of Senior Constable promoted before 01.01.1996 with Junior Constable promoted after 01.01.1996 from the date the junior constable was promoted. According to this letter, your pay was step-up with Pratap Singh s/o Sh. Banta Singh, Head Constable/RPF w.e.f. 29.04.2000 and it was intimated to you vide this office same no. letter dated 19.12.2013. In this regard, the Civil Writ Petition No.1648/2013 filed by you was pending in the Hon'ble High Court of Punjab and Haryana, Chandigarh. Now the Hon'ble Punjab and Haryana High Court, Chandigarh has written in this writ petition on 19.02.2015 in its order to submit your new application in the Department within the period of 3 months from the date of issuance of orders and get your pay fixed and the department will initiate proceedings within a period of further 3 months. Initiating proceedings on the application submitted by you on 04.05.2015 in this office, the department has been step up your pay with Sh. Harbhajan Singh s/o Sh. Sadhu Singh Head Constable RSF who was promoted to the post of Head Constable from 25.09.2001 and Sh. Darshan Singh s/o Sh. Dharam Singh who was promoted on the post of Head Constable on 06.09.2001 without giving the benefit of ACP/MACP in the pay which is less than the pay fixed earlier. Accordingly, the benefit already granted you earlier is proper. The chart of pay step-up with Sh. Harbhajan Singh s/o Sh. Sadhu Singh and Sh. Darshan Singh s/o Sh. Dharam Singh is enclosed."

Thus, a perusal of the above order reveals that the petitioner has already been granted the benefit w.e.f. 25.09.2001 (when his junior Harbhajan Singh was promoted to the post of Head Constable) and 06.09.2001 (when his junior Darshan Singh was promoted to the post of Head Constable). Alongwith the impugned order, chart of pay parity of the petitioner with Harbhajan Singh and Darshan Singh was also enclosed. A perusal of the same reveals that the pay of the petitioner was fixed at the rate of ₹4050/- as was being given to his junior Harbhajan Singh w.e.f. 25.09.2001 and Darshan Singh w.e.f. 06.09.2001. Thus, the relief claimed by the petitioner has already been granted to him.

No ground for interference by this Court is made out.

Dismissed. However, in case, if any, arrears on account of fixation of pay parity to the petitioner with his juniors Harbhajan Singh and Darshan Singh still remain to be paid, the petitioner would be at liberty to make representation in this regard to respondent No.4.

**(SABINA)
JUDGE**

January 19, 2016
mahavir