

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

**C.W.P No. 13230 of 2015**

**Date of decision : 17.03.2016**

**Dharam Pal**

**...Petitioner**

**versus**

**State of Haryana and others**

**..Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Aman Chaudhary, Advocate  
for the petitioner.

Mr. Ravi Pratap Singh, A.A.G. Haryana

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**RITU BAHRI , J.**

Petitioner is seeking issuance of a writ in the nature of certiorari quashing the decision of the respondents conveyed vide reply dated 15.05.2015 (P-4) sent by the respondents to the legal notice got sent by the petitioner, rejecting the claim of the petitioner with regard to fixation of his pay and consequential benefits at par with his juniors.

Initially petitioner joined P.W.D B & R department as T. Mate w.e.f 22.07.1978 who acquired A Class Wiremen certificate during his service. The appointment of the petitioner was on contract basis. In view of the policy dated 03.08.1982, petitioner became eligible for consideration of his claim for promotion as Electrician w.e.f 22.07.1984 but ignoring his claim, one of his junior Sukhbir Singh along with others

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were promoted as Electrician w.e.f 26.12.1985. Consequently, petitioner filed civil suit claiming mandatory injunction for promotion as Electrician, which was decreed in his favour vide judgment and decree dated 14.08.1992. This judgment was challenged by State of Haryana through Civil Appeal No. 164 and 165 of 18.09.1992, which were heard together and decided on 10.12.1992 and petitioner was held not entitled to promotion as Electrician from Workcharge T. Mate w.e.f 23.07.1984.

Subsequently, petitioner filed R.S.A No. 1044 of 1993 which was allowed on 01.04.2014 on the ground that the petitioner fell in category (i) and (iii) of policy dated 03.08.1982. Petitioner was held eligible to the post of Electrician w.e.f 26.12.1985, the date from his juniors were promoted. He is also held entitled for re-fixation of his pay and for arrears of salary along with interest @12% per annum along with consequential benefits.

However, while implementing the above said judgment, the respondents have not fully complied with the directions of fixing his pay and granting consequential benefits, as had been granted to his junior Sukhbir, as the petitioner has been granted the scale of Rs.400-600 w.e.f 26.12.1985, revised pay scale of Rs.950-1400 w.e.f 01.01.1986 who has been made regular w.e.f 01.01.1987 and the scale has been revised to Rs.3050-4350 w.e.f 01.01.1996, 1<sup>st</sup> ACP w.e.f 01.01.1997 in the

pay scale of Rs.4000-6000 and revised pay scale PB-1 5200-20200+ Grade Pay Rs.2400/- w.e.f 01.01.2006 and 2<sup>nd</sup> A.C.P in the same pay scale with grade pay of Rs.3200/, who retired from service on 31.01.2014.

During pendency of the proceedings, the department introduced technical pay scale of Rs.1200-2400 w.e.f 01.05.1990 and the petitioner in turn on the basis of acquiring A class Wiremen Certificate, was promoted as Electrician w.e.f 08.08.2006 and was given technical scale of 5200-20200+ Grade Pay Rs.2400/- from that date. He stood retired on 31.01.2014.

The grievance of the petitioner that he has been discriminated in not granting him technical pay scale of 1200-\*2400 w.e.f 01.01.1990 on the ground that State of Haryana has abolished the technical scale vide Ordinance No. 6 of 2013 i.e 10.12.2013.

Learned counsel for the petitioner contends that the ground for rejection of the claim of the petitioner placing reliance upon the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Ordinance, 2013 (hereinafter referred to as 'Ordinance 2013) dated 10.12.2013 and thereafter, the notification dated 11.03.2014, vide which the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014 (hereinafter referred to as 2014 Act) has come into effect,

would not bar the claim of the petitioner as made by him in the regular second appeal preferred by him in the year 1993, referred to above. Referring to Section 6 of the 2014 Act, counsel for the petitioner contends that proviso of the said Section would protect the claim of the petitioner, according to which all those persons, who had already been granted unconditionally the upgraded pre-revised pay scale and drawing the same before the date of notification of the Ordinance, 2013 i.e. 10.12.2013, shall continue to draw these pay scales as a measure personal to him.

Thus, for all intents and purposes, once the department has not filed any appeal against the judgment passed by this Court on 01.04.2014 and keeping in view notification dated 11.03.2014, the petitioner should have been granted the technical pay scale w.e.f 01.05.1990 i.e Rs.1200-2400, revised to Rs.4000-6000/- w.e.f 01.01.1996 and to Rs. 9300-34800 with grade pay of Rs.3200/- w.e.f 01.01.2006, which had been granted to his juniors.

For the reasons stated above, the writ petition is allowed and reply dated 15.05.2015 is hereby set aside and petitioner is held entitled to technical pay scale w.e.f 01.05.1990 i.e Rs.1200-2400, revised to Rs.4000-6000/- w.e.f 01.01.1996 and to Rs. 9300-34800 with grade pay of Rs.3200/- w.e.f 01.01.2006 along with consequential benefits, which had been granted to his juniors, in view of order dated

01.04.2014. This exercise shall be completed within a period of three months from the date of receipt of certified copy of this order.

However, it is clarified that the benefit given to the petitioner shall be measured personally to him as per proviso to the notification.

**(RITU BAHRI)**  
**JUDGE**

**17.03.2016**

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