

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision:01/08/2016

Harish Chander(Retd.) and others

.....Petitioners

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Gurbhajneek Singh Samra,Advocate for the petitioners

Jaswant Singh,J(Oral)

Seven petitioners were promoted as Junior Assistants in the year 28.1.2000 in the pay scale of Rs.4400-7000 from the rank of Clerk in the pay scale of Rs.3120-5160 in the Department of Local Government, Punjab.

The date of retirement, on superannuation, of seven petitioners is as under:-

<i>Sr.No.</i>	<i>Name</i>	<i>Appointed as Peon</i>	<i>Appointed as Clerk</i>	<i>Appointed as Junior Assistant</i>	<i>Date of Retirement</i>
1	Harish Chander	---	19.12.1975	28.1.2000	31.8.2015
2	Amrik Singh Bala	---	11/05/70	28.1.2000	31.10.2006
3	Mal Singh	---	17.9.1973	28.1.2000	30.4.2007
4	Amarjit Singh	---	01/09/71	28.1.2000	31.8.2006
5	Kanwaljit Singh	06/12/69	1971	28.1.2000	31.3.2004
6	Jit Singh	01/07/73	1974	28.1.2000	30.6.2011
7	Amrik Singh	01/03/77	1994	28.1.2000	31.12.2013

The grievance of the petitioners is that they have been denied the pay scale of Rs.5000-8100 as revised vide notification dated 16.1.1988

for the post of Junior Assistants. It is claimed that those Junior Assistants who were promoted prior to general pay revision w.e.f. 1.1.1996 as also who stood promoted on 1.1.1996 as Junior Assistants were granted pay scale of Rs.5000-8100, however, the same is being denied to the petitioners who have been promoted and appointed as Junior Assistants in the year 2000.

After hearing the learned counsel for the petitioners, no case for grant of pay scale of Rs.5000-8100 w.e.f. 1.1.1996 in terms of general pay revision vide notification dated 16.1.1998, Punjab Civil Services (Revised) Pay Rules,1998 is made out for the following reasons.

It is not in dispute that vide **Annexure P-1**, the employees in the unrevised/existing pay scale of Rs.1500-2700 were extended the revised pay scale of Rs.5000- 8100 in terms of pay revision Rules,1998 (**P-1**). It is also not in dispute that the pre-revised pay scale of post of Clerk was Rs.950-1800 and that of Senior Clerks Rs.1200-2130 and of Junior Assistants Rs.1500-2700, and the ratio of the posts was- Clerks 20%; Senior Clerks 40% and Junior Assistants 40% . After the notification dated 16.1.1998, a subsequent notification dated 19.5.1998 (**P-2**) was promulgated whereby the Pay Revision Rules,1998 were amended with retrospective effect i.e. 1.1.1996. Vide said notification **P-2** the inter se pay scales of Clerks and Junior Assistants was as under:-

“The designation and the revised equivalent of the unrevised pay scale of officials working as Senior Clerk and Junior Assistant, as on 1st January,1996, shall be protected as a measure personal to them. For future, the total number of posts of Clerk including Senior Clerk and Junior Assistant in a cadre existing on 1st

January, 1996 shall be divided into the posts of Clerk in the scale of Rs.3120-5160 and Junior Assistant in the scale of Rs.4400-7000 in the ratio of 50:50. The new posts of Junior Assistant shall be created on the basis of actual requirements.

The posts of Junior Assistant shall be filled up by promotion to the extent of 100% from amongst the Clerks who have an experience of working as such for a minimum period of 5 years in the cadre of the department in which he is working at the time of promotion.”

It is thus evident that the benefit of pay scale of Rs.5000-8100 was restricted only to 50% of the posts whereas the remaining Junior Assistants were to be placed in the pay scale of Rs.4400-7000. Since the Junior Assistants appointed or promoted prior to 1.1.1996 were granted protection of revised pay scale of Rs.5000-8000 irrespective of their posts falling under the quota of 50%, the Junior Assistants appointed or promoted on 1.1.1996 filed a writ petition before this Court for grant of pay scale of Rs.5000-8100 on the basis of seeking correct interpretation of Notification **P-2**, which provided that “those appointed on 1.1.1996”.

A learned Single Judge of this Court vide decision dated 16.5.2012 (**P-3**) interpreted the rule provided in the amendment and thereby extending the benefit to those Junior Assistants who stood appointed as Junior Assistants on 1.1.1996. The case of the petitioners concededly does not fall within that exception carved out by the learned single Judge vide judgment **Annexure P-3**. Thus, it is apparent that the petitioners were appointed on the posts of Junior Assistants in the year 2000 for the posts stood sanctioned in the pay scale of Rs.4400-7000 to the extent of 50% in

attaining the age of superannuation and therefore the master and servant relation ceases to exist with effect from such dates and now after a delay of so many years, no case for interference on account of delay and laches also is made out.

Dismissed.

01.08.2016
joshi

(Jaswant Singh)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable:	Yes/No