

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

Date of decision:08/08/2016

Kulwant Singh

.....Petitioner

VS

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Pawan Kumar Goklaney,Advocate for the petitioner.

Jaswant Singh,J(Oral)

Petitioner was appointed as Liquid Nitrogen Plant Operator on 27.2.1996 on temporary basis and his services were subsequently regularized on 11.9.2003. He possesses qualification of Matriculation and 3 years diploma.

It is not disputed that the post held by the petitioner is governed by Punjab Animal Husbandry (Non-Ministerial)Class III,Service Rules,1992(for short 1992 Rules) and at the time of petitioner joining the service on 27.2.1996 the sanctioned pay scale of the post was Rs.950-1800. It is not in dispute that the petitioner was granted said pay scale and consequent pay revision attached with the pay scale.

Claim of the petitioner is for grant of higher pay scale on the basis of a notification dated 11.7.1967 wherein Technical/Semi-skilled Workers were granted a higher pay scale who possess certificate of Matriculation and two years Technical Training Certificate from Industrial Training Institutes.

Learned counsel for the petitioner submits that based on a

and others (P/4) a general decision was taken vide letter dated 30.6.2011 (**P/11**) extending the benefit of the judgment and due placement in the pay scale of Rs.140-300 to all those employees also who had not filed writ petitions. It is thus contended that the petitioner is also entitled to such benefit by hypothetical placement with retrospective effect (when he was not even in service) and thereafter consequent placements in revised pay scale from time to time.

The prayer made is totally misconceived.

In the case of **Rajinder Pal Gautam and others v State of Punjab and others**, (**CWP 10759/1990**) decided on 30.5.2008 civil writ petitions were filed by the persons appointed on the post of Pump Operators in the Punjab Health Department between the years 1967 to 1980. Although, the petitioners therein possessed the qualification of Matriculation and certificate of two years ITI and yet pay scale of Rs.140-300 was not extended to them on the ground that they were not borne on the cadre of technical staff. It is in these circumstances that it was held that as the higher pay scale was linked to educational qualification, the same could not be denied to employees who are not borne on technical staff. The case of the petitioner herein is entirely different. At the time the petitioner was appointed even on *ad hoc* basis in the year 1996 the post was covered by 1992 Rules with a sanctioned pay scale of Rs.950-1800. All subsequent pay scales, as revised, have been granted to the petitioner. It has rightly been held while declining his prayer vide speaking order dated 4.12.2013 (**P-16**) that the petitioner cannot derive any benefit from the decision in **Rajinder Pal Gautam's** case (*supra*). The relevant extracts of said speaking order are

read as under:-

- “6. The services of Sh.Kulwant Singh-petitioner are governed by the Punjab Animal Husbandry (Non-Ministerial)Class-III, Services Rules, 1992 and therefore, he is not entitled for a scale which is not in consonance with the said statutory rules.
7. That Sh.Kulwant Singh-petitioner joined the Animal Husbandary Department in the year 1996 and hence, he can not claim relief of some recommendations of the Pay Commission's report dating back to the year 1968 when he was not even in service.
8. That no vested rights rests in favour of Sh.Kulwant Singh-petitioner to be granted higher pay scale as he is already being given the pay scale as per the post held by him. Granting higher pay scale to him would amount to having two pay scales for the same post which is not legally tenable. In view of the aforementioned facts and circumstances, the claim of Sh.Kulwant Singh, LNPO can not be accepted and the same is,therefore, rejected.”

In view of the above, no case for interference is made out, moreso, after a lapse of 2½ years from the date of passing of speaking order dated 4.12.2013 (P-16).

For the reasons stated above, the present writ petition stands dismissed with costs of Rs.10,000/- to be deposited with District Legal Service Authority,Sangrur within a period of two months from today,failing which it shall be recovered as arrears of land revenue.

A copy of this order be sent to District Legal Service Authority,Sangrur for strict compliance.

08.08.2016
joshi

(Jaswant Singh)
Judge

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