

**217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CWP No.20371 of 2014 (O&M)
Date of decision : August 12, 2016

D.P. Karkara Petitioner

Versus

State of Punjab and others Respondents

2. CWP No.3542 of 2015 (O&M)
Date of decision : August 12, 2016

Anand Parkash Gupta and another Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.K. Bansal, Advocate for the petitioner(s).

Mr. Roopam Aggarwal, DAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of two cases bearing CWP No.20371 of 2014 and 3542 of 2015. For brevity, the facts have been extracted from CWP No.20371 of 2014.

Petitioners in all joined as Junior Auditors in the Local Audit Department on different dates and later on, promoted as Senior Auditor and thereafter, on other posts as per their seniority.

According to the petitioners, as per Notification dated 04.09.2000, they were getting the scale of ₹3700-5000/- + special pay of

₹400/- and the same was revised w.e.f. 01.01.1996 in the revised pay scale of ₹13,500-16,800/- with initial start of ₹14,300/-. In this way, the start up of salary of the petitioners was ₹14,300/-.

Vide Notification dated 22.02.2010, the Government recommended the revision of pension and the same was revised vide letter dated 10.05.2010.

The plea of the petitioners is that since they were working in the pay scale of ₹14300-400-15900-450-16800/-. Therefore, their revised pay was wrongly fixed in the pay scale of ₹15,600-39,100/- grade pay of ₹8,400/- by ignoring the fact that operative scale of the past from which the petitioner had retired was ₹14300- 16800 and not ₹13500-16800. Therefore, taking the scale of ₹14300-16800/-, their pay was to be revised in the pay scale of ₹37400-67000/- plus grade pay ₹8700/-.

Petitioners seek the quashing of order dated 28.11.2013 (Annexure P-12), whereby the pay of the petitioners was wrongly fixed in the pay scale of ₹15600-39100 +8400 grade pay in place of ₹37400-67000+₹8700 grade pay.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the petitioner relies upon the judgment (Annexure P-5) passed by this Court in CWP No.6993 of 2008, titled as ***“Ajaib Singh Kandhari v State of Punjab and another”***, which was affirmed by the Division Bench of this Court in LPA No.665 of 2009 (Annexure P-6).

I am of the view that the ratio of said judgment is not attracted

in present case. There the employee was getting a particular scale with a minimum start up and pension was ordered to be fixed as per start up salary.

In the present case, the controversy is entirely different. Here the present petitioners claim that since they were getting the pay scale of ₹13500-16800 with initial start up of ₹14,300/-. Therefore, their pay scale should be taken as ₹14,300/- while revising the scale in the corresponding scale, in view of the instructions (Annexure P-3), which is reproduced as under:

*“I am directed to refer to Punjab Government letter No.3483-FR(PRC)-69/14498, dated the 7th July, 1979, on the above subject and to say that the words “proviso (d) to Sub-rule (2) of Rule 6 of “appearing in the first line thereof, have caused doubt as to the real intention of the clarification. I am accordingly to clarify **that wherever higher initial pay has been provided for a post, such higher start shall be deemed to be the minimum stage of the revised scale of the employee concerned for all purposes.** The words “proviso (d) to sub-rule (2) of Rule 6 of “shall be deemed to have been omitted from the said letter ab initio”.*

A perusal of the said instruction makes it clear that in case, the pay is re-fixed, and higher scale is given, the higher start up shall deemed to be minimum stage of revised scale of the employees concerned for all purposes. In the present case, revised scale was given. The initial start up of ₹14,300/- is to be protected. Annexure P-3 never meant that instead of pay scale of ₹13,500-16,800/- the pay scale of the petitioners shall deemed to have been ₹14,300-18,150/-.

The instruction (Annexure P-3) further makes it clear that the

pay scale will remain same but the initial start up pay shall be protected while granting the higher scale. It was never meant that it shall deemed to mean that the petitioner will get the minimum start up pay shall deemed to be the scale for the purpose of granting corresponding scale in the pay revision.

In this case, in the revised pay scale, the petitioners were given the pay scale of ₹15,600-39100/- in the revised pay scale + ₹8400/- grade pay and the pay was fixed @ ₹33,510/-, which is more than ₹14,300/-.

Since, the pay of the petitioner(s) was correctly fixed, therefore, they are not entitled for re-fixation of pay in the higher scale, revised pension or any arrears.

It being so, I do not find any merit in the aforesaid writ petitions. As such, both the petitions are dismissed.

(KULDIP SINGH)
JUDGE

August 12, 2016

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Whether speaking / reasoned Yes

Whether Reportable: Yes