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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.3017 of 2012
Date of decision: 25.4.2016

Prit Pal Singh **...Petitioner**

Versus

State of Punjab and another **...Respondents**

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Munish Thakur, Advocate for
Mr. Puneet Gupta, Advocate for the petitioner.

Mr. Inder Pal Goyat, Addl. Advocate General, Punjab
for the respondents.

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G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks grant of next higher pay scale of ₹ 2000-3500/- with effect from 7.6.1991 when he was appointed on the post of Dialysis Technician. The ground taken is that the said post had the higher pay scale than the lower post of Laboratory Technician Grade-I on which the petitioner was working prior to 7.6.1991 when he was appointed on the post of Dialysis Technician. Therefore, the petitioner was entitled for the revision of the pay scale along with arrears.

The pleaded case of the petitioner is that he was appointed on 27.9.1979 as Laboratory Assistant Grade-II (Malaria cadre) later re-designated as Laboratory Technician Grade-II in the pay scale of ₹ 950-1800/-. He was promoted as Laboratory Technician Grade-I in the pay scale of ₹ 1200-2100/-. An advertisement had been issued on 23.2.1991 for the post of Dialysis Technician in the pay scale of ₹ 1350-2400/- which had a higher pay scale than the post of Laboratory Technician Grade-I. Being fully eligible, the petitioner applied for the said post and he was appointed on 29.5.1991 and joined as such on 7.6.1991. The pay scale of earlier post held by him was revised from ₹ 1200-2100/- to ₹ 1800-3200/-

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and accordingly the pay scale of the petitioner was notionally revised w.e.f. 1.1.1986 of the post of Laboratory Technician Grade-I for the period 17.5.1988 to 6.6.1991 and his pay was protected in the scale of ₹ 1800-3200/-. The petitioner was getting pay scale of ₹ 1350-2400/- as Dialysis Technician and accordingly there was no revision in his pay scale. A detailed representation had been filed but anomaly has not been corrected.

The respondents in their reply took the plea that the post of Dialysis Technician was a direct quota post and the cadre of both the posts of Laboratory Technician Grade-I and the post held by the petitioner was different. He was entitled to the pay scale of the post on which he was selected and appointed. Nature of duties of both the posts was totally different. There was no ground for demand of higher pay scale which was equivalent to that of Laboratory Technician Grade-I on which the petitioner was working prior to his appointment as Dialysis Technician. Therefore, there is no cause to maintain parity of pay scales of two posts of different cadre. The pay scale has been fixed by the Punjab Government on the recommendations by the Punjab Pay Commission and therefore, there is no merit in the case of the petitioner.

Keeping in view the above defence taken by the State, it is apparent that the petitioner joined the post of Dialysis Technician as it is his own admitted case which was in pursuance of an advertisement and he had been appointed on the said post. Thereafter, on account of revision of pay scale of the post to which he was holding earlier, he is seeking the benefit. It is not his case that he was promoted as such and that he is entitled for the protection of his pay. It is a case of fresh appointment.

Under such circumstances, the relief of the revision of his pay scale sought by the petitioner cannot be granted in absence of any legal

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right as such.

Accordingly, finding no merit in the present writ petition, the same is dismissed.

April 25, 2016 **(G.S.SANDHAWALIA)**
Pka **Judge**

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