

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 28065 of 2013 (O/M)
Date of decision : 28.7.2016

Nachhatar Singh

..... Petitioner (s)

Versus

The Punjab Agricultural University, Ludhiana and anotherRespondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. D.V. Sharma, Senior Advocate, with,
Ms. Shivani Sharma, Advocate, for the petitioner.

Mr. H.N.S. Gill, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes.
 2. To be referred to the Reporter or not. Yes.
 3. Whether the judgment should be reported in the digest ? Yes.
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KULDIP SINGH J. (ORAL)

The petitioner, in the present writ petition, has impugned order dated 8.3.2013 (Annexure-P-17), passed by Registrar, Punjab Agricultural University, Ludhiana (in short 'respondent-University'), vide which he was denied the selection grade in view of the instructions dated 3.3.1980 and 29.10.1984.

It comes out that this is second round of litigation. The petitioner was working as a Restorer with respondent-University. He joined the service on 11.6.1966 and ultimately retired on 7.10.2004. The petitioner claims that the recommendations of the 2nd Pay Commission were implemented with effect from 1.1.1978 and the recommendations of the 3rd Pay Commission were implemented with effect from 1.1.1986. These were

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duly adopted by respondent-University. It is claimed that since the recommendations were adopted by respondent-University, therefore, he is entitled to selection grade in view of instructions dated 3.3.1980 (Annexure-P-3), followed by instructions dated 29.10.1984 (Annexure-P-6). It also comes out that previously, the petitioner had approached this Court by way of filing a writ petition i.e. CWP No. 14896 of 1993, titled as Nachhatar Singh Versus Vice-Chancellor, Punjab Agricultural University, Ludhiana, and others, which was decided by the Single Bench of this Court on 23.3.2011 (Annexure-P-15), in which it was mentioned that the petitioner was granted selection grade of Rs. 510-810 till 31.12.1985. The said writ petition was dismissed by observing that the selection grade was denied to the employee in the pre-revised pay scales due to inaction of the authorities and later on, his case was kept pending to await the report of the 3rd Pay Commission. The petitioner filed the Letters Patent Appeal i.e. LPA No. 293 of 2012 against the judgment passed by the Single Bench of this Court in CWP No. 14896 of 1993, titled as Nachhatar Singh Versus Vice-Chancellor, Punjab Agricultural University, Ludhiana, and others, which was heard by a Division Bench of this Court and allowed the said LPA, vide order dated 13.3.2013 (Annexure-P-16). The relevant extract from the operative part of the judgment is reproduced as under :-

“ This appeal is allowed. The orders of learned single Judge is set aside. We would, however, like to place on record the submission of learned counsel for the respondents that selection grade, in any case, was not admissible to the Restorers. He submits that section grade was provided to only six categories of employees out of twenty. However, this is disputed by the learned counsel for the appellant. In any case, it is not for us to go into this aspect in the present appeal

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because of the reason that the matter was not considered from this angle by the respondents-authorities at all. As mentioned above, the only reason for denying selection grade was that it came to be abolished from 1.1.1986. We, therefore, allow the writ petition filed by the petitioner to the extent that the case of the appellant shall be considered by the respondents for grant of selection grade on its own merits and as per rules. Order to this effect shall be passed within one month from today. In case, the appellant still has any grievance by the order that may be passed, it will be open for the appellant to challenge the same, in accordance with law.”

Accordingly, the respondents considered the case of the petitioner and passed the impugned order dated 8.3.2013 (Annexure-P-17).

The operative part of the said order is reproduced as under :-

“ In the light of the orders of the Hon'ble High Court, the request of Sh. Nachhattar Singh, Ex-Restorer received in this office on 26.2.2013 has been examined and it has been found that as per notification issued by the Comptroller, PAU vide No. CAU.B.I.80/773 dated 11.1.1980, only six categories of employees were provided selection grade out of 20 categories and there was no provision for the grant of selection grade to the post of Restorer/Restorer-cum-Daftri. Therefore, Sh. Nachhattar Singh, Ex-Restorer is not entitled for the grant of any selection grade w.e.f. 1.6.1985, as claimed by him. The request of Sh. Nachhattar Singh, Ex-Restorer received on 26.2.2013 is hereby rejected.”

The petitioner is aggrieved by the said order dated 8.3.2013 (Annexure-P-17), passed by respondents.

The respondents, in the written statement, have taken the stand that the selection grade was granted only to six categories of employees and that the post of Restorer did not fall in the said category. Later on, the recommendations of the 3rd Pay Commission were implemented with effect

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from 1.1.1986 and the selection grade was abolished while granting the revised pay scale. The petitioner was given option to continue to draw old pay scales or switch over to new revised pay scales with effect from cut off date. The petitioner opted for revised pay scale and consequently, his pay was accordingly fixed with effect from 1.1.1986. The respondents have placed reliance upon letter (Annexure-R-1) dated 26.2.1992 of the respondent, which mentions about the grant of grade as per the instructions issued, vide letter No. 7/25/84-5 F.R/11160, dated 29.10.84 by the Government. It was further mentioned that as per the recommendations of the 3rd Pay Commission, the Government had decided to stop giving selection grade with effect from 1.1.1986. The reference has also been made to the 60th meeting of Board of Management, held on 11.1.1980 and consequently, notification dated 11.1.1980 (Annexure-P-19) was issued, in which certain categories of University employees were given revised pay scales with effect from 1.1.1978, In the sixth category, the selection grade was mentioned, whereas it was not mentioned against some other categories, which includes Restorers, Messenger Boys and Chokidars etc.

I have heard the learned senior counsel for the petitioner, the learned counsel for respondents and have also carefully gone through the file.

It comes out that the dispute is regarding the grant of selection grade to the petitioner on completion of 15 years' service, which he had completed on 10.6.1981. It is also not disputed that in the report of the 2nd Pay Commission, the provision for selection grade was there. As per the instructions of the Government dated 3.3.1980 (Annexure-P-3), 20% of the cadre was to be given selection grade. It is not disputed that there was only

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one post of Restorer and in such case, the said person would be entitled to selection grade, if otherwise eligible.

Now, the question would arise whether the selection grade was rightly denied to the petitioner by the respondents on the basis of the Minutes of Meeting of Board of Management, dated 11.1.1980 ?

I find the reply in negative.

The various instructions issued by the Punjab Government from time to time were adopted by the respondent-University. One such instructions was issued on 3.3.1980 (Annexure-P-3), followed by other instructions dated 29.10.1984 (Annexure-P-6). The perusal of order dated 22/27.6.1984 (Annexure-P-4), passed by respondent-University shows that the Messenger Boys were granted the selection grade though they did not fall in said categories, mentioned in the said meeting of Board of Management, held on 11.1.1980. Similarly, the Laboratory Technicians were also granted the selection grade, vide order dated 29.10.1984 (Annexure-P-6). Otherwise also, once the recommendations of the 2nd Pay Commission were implemented and were adopted by respondents, they could not make any distinction regarding grant of selection grade to various categories of employees. If it was done at all, it amounts to discrimination between the employees working under the control of the same authority.

It being so, I am of the view that the petitioner was entitled to grant of selection grade with effect from 11.6.1981. The selection grade has not been denied, alleging that the petitioner is not suitable for grant of selection grade on account of service record. The only ground mentioned in the impugned order is that only six categories of employees were provided with selection grade, which is found to be factually incorrect, in view of the

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orders passed regarding the Messenger Boys and the Laboratory Technicians. Admittedly, on the implementation of report of the 3rd Pay Commission, the selection grade was abolished with effect from 1.1.1986. The petitioner opted for new scale with effect from 1.1.1986. However, his pay on the completion of 15 years' service was to be re-fixed after granting the selection grade and then, corresponding fixation was to be made on the implementation of the report of the 3rd Pay Commission with effect from 1.1.1986 and consequential fixation is also to be made. As such, the present writ petition is allowed. The respondents are directed to grant the selection grade to the petitioner with effect from 11.6.1981, when he completed 15 years' service and thereafter re-fix his pay till retirement. Needless to say that the retiral benefits will also be revised in accordance with the fresh pay fixation and the arrears shall be paid to the petitioner within three months from the date of receipt of copy of this order with interest at the rate of 6% per annum.

(KULDIP SINGH)
JUDGE

28.7.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes