

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3190 of 2013

Date of decision:4.11.2016

Richh Pal Singh

... Petitioner

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

The petitioner has approached this Court for stepping up of his pay at par with that of one Bharat Bhushan. To understand the case, it would be necessary to outline a few facts. The petitioner was appointed as a Steno-Typist in July, 1978 and was promoted as Senior Scale Stenographer in June, 1981. One Bharat Bhushan was initially appointed as Accounts Clerk in the pay scale which was equal to the pay scale of Senior Scale Stenographer. The appointment came in July 1983. Bharat Bhushan got the benefit of Finance Department letter dated February 8, 1994 and was granted the first Higher Standard Scale on completion of 10 years of regular satisfactory service w.e.f. January 1, 1994, but the petitioner was neither granted nor was entitled to the Higher Standard Scale because he had already availed the benefit of promotion from the post of Steno Typist to Senior Scale Stenographer. Bharat Bhushan armed with the first Higher Standard Scale came to enjoy higher salary than what normally would have been admissible to the pre-revised pay scale of ₹ 525-1050.

The question which falls for consideration is whether the petitioner has a right to stepping up pay at par with Bharat Bhushan and the subject matter field is stated to be covered by the Finance Department Haryana Instructions dated October 29, 1994, July 23, 2003 and March 26, 2009 because the feeder cadre of the petitioner's post is different than that of Bharat Bhushan. All that means to notice is that the petitioner and Bharat Bhushan belong to different cadres, which may at a further promotional post become feeder categories. But that fact remains that the petitioner would not have a right to anything akin to the first Higher Standard Scale by reason of having earned a promotion. The Higher Standard Scale was built to remove stagnation in cases where chances of promotion were narrow and restricted then to give them in lieu thereof more pay. In the case of the petitioner, his stagnation has been removed by promotion and therefore, it appears to the Court that the petitioner has no right to claim the same benefit of stepping up of his pay at par with Bharat Bhushan as they are borne in separate cadres, the steno line and the clerical line. Merely on account of a published gradation/seniority list amalgamating the seniority list of Stenos with the Clerical cadre the petition cannot succeed as case can only be read for the purpose of promotion to the higher post but not to bring the usufruct of the monetary benefits claimed in this petition, there being no rule recognised seniority list.

The Haryana Government instructions dated April 9, 2010 on the moot subject relied on, issued under the Haryana Civil Services (Assure Career Progression) Rules, 2008 [for short 'HCS (ACP) Rules'] deal with stepping up of pay at par with junior officer are concerned the clarification issued by the Finance Department does not cover this case. These

instructions deal with cases where senior is promoted after getting 1st ACP and the junior gets 2nd ACP before getting next promotion resulting thereby a situation where pay of junior gets exceeded. To remove this anomaly, the Government has issued the clarification dated April 9, 2010 in exercise of powers vested under the provisions of Rules 27 & 28 of the HCS (ACP) Rules. These instructions are not designed to benefit of the petitioner. Accordingly, the petition is found devoid of merit and is ordered to stand dismissed.

However, the dismissal of the petition will not preclude the petitioner from claiming benefit of HCS (ACP) Rules, in case they have meanwhile fallen due and for this purpose, he is at liberty to approach the departmental authorities, which will take a decision in accordance with law as expeditiously as possible, say within 3 months from the date of supply of certified copy of this order, on a representation made in writing within three weeks. Needless to say, the petitioner, if he desires, will be afforded an opportunity of hearing and a speaking order passed and duly conveyed to him. No costs.

(RAJIV NARAIN RAINA)
JUDGE

4.11.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*