

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

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**CWP-26829-2014 (O&M)
Date of decision: 22.12.2016**

Sanjay Kumar

....Petitioner

Versus

State Bank of Patiala and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Rajesh Punj, Advocate for the petitioner.

Mr. H.N.Mehtani, Advocate for respondents No.1 to 3.

P.B. Bajanthri, J. (Oral)

Short question for consideration in the instant writ petition is whether the petitioner is entitled to ½ of the scale wages from the date of his appointment on 18.07.1998 or not having regard to the scheme of the fixation of wages of part-time Sweeper according to the carpet area vide circular dated 24.09.1993 (Annexure P2).

2. It is undisputed that petitioner was appointed as a Sweeper in Budhlada Branch. Carpet area of the said branch's is 6200 square feet whereas two Sweepers were appointed to the said branch. One is petitioner and other one is Leelawati. Leelawati was appointed in the year 1996 in the 3/4th scale whereas the petitioner was appointed for 1/3rd scale. Perusal of the appointment order of both the petitioner and Leelawati it is evident that carpet area has not been indicated. Therefore, presumption can be drawn

that the carpet area of 6200 is divided amongst these two. If the carpet area is divided into two then the petitioner's case would fall under carpet area from 2001 to 3500 for which one half of the scale wages per month and working hours per week would be more than 13 hours and 19 hours. Since in Budhlala Branch the petitioner and Leelawati were working as Sweepers hence they are entitled for wages half of the scale as per the Circular dated 24.09.1993 (Annexure P2). In view of the above facts and circumstances, and the fact that the respondents have not indicated the carpet area of working in respect of both the petitioner and Leelawati. Hence the petitioner is entitled to half of scale wages for the period from 1998 to 2005 i.e., till his scale was changed from 1/3rd to half.

3. On the other hand, learned counsel for the respondents submitted that the petitioner has not questioned the validity of the appointment order where the scale has been fixed and after lapse of so many years only in the year 2012 he has rake up the issue relating to grant of higher scale of wages. Hence the petitioner is not entitled for relief sought in the present petition. It was further contended that Leelawati was given 3/4th scale and the petitioner has been given 1/4th scale for the reasons that the petitioner was assigned only 1200 square feet of carpet area whereas, Leelawati was given 5000 square feet. No material is made available so as to contend the same.

4. Heard learned counsel for the parties.

5. No doubt the petition is highly belated. However, for the purpose of claiming monetary benefits, no third party right would be affected. Therefore at the best, monetary benefits can be restricted to certain period.

In the present case, monetary benefits entitlement is for the period from 1998 to 2005 at the enhanced rate from 1/4th scale to half of scale wages. In order to give quietus to the litigation the respondents are directed to pay sum of Rs.75,000/- in lump sum for the reasons that both the appointment order of petitioner and Leelawati do not indicate the carpet area for the purpose of discharging the duties of the Sweepers read with scale wages. Only in the present litigation, the respondents are contending that Leelawati was assigned 5000 square feet and the petitioner was assigned 1200 square feet. Hence, in the absence of material and in not indicating carpet area of work to each of them in their appointment order the petitioner is entitled for half of the scale of wages having regard to the fact that carpet area of the branch is 6200.

6. Order dated 26.12.2013 (Annexure P-20) is set aside. The respondents are directed to pay compensation of Rs.75,000/- within a period of 3 months.

7. CWP stands disposed of.

22.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No