

The petitioner was appointed as a regular Sub Divisional Officer/Assistant Officer on 3.6.1981. Suffice to say that vide order dated 13.4.1999, conveyed to the petitioner on 23.4.1999 (Annexure-P-3), the petitioner was granted selection grade of Rs. 4100-5300 with effect from

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4.8.1993 on completion of 12 years of regular satisfactory service. The petitioner retired as an Executive Engineer from Haryana Urban Development Authority, Horticulture, Gurgaon, on 30.4.2005. He claims that as per the 1<sup>st</sup> Schedule, Part-II of the Haryana Civil Services (Revised Pay Rules), 1998, and as per the conversion table, in case of Rs. 4100-5300, the corresponding pay scale was Rs. 13500-17250, as per Annexure-P-4. The petitioner claims that in a similar case in case of S.P. Sood Versus State of Haryana, (CWP No. 5520 of 2003, decided on 2.2.2009), the similar controversy was decided against the department and similarly, in case of Dr. K.L. Kumar Versus State of Haryana and others, (CWP No. 10506 of 2002, decided on 6.10.2009), the controversy was decided against the State. The petitioner had earlier filed CWP No. 20674 of 2012, titled as T.S. Virk Versus State of Haryana and others, (decided on 15.10.2012), in which the authorities were directed to decide the representation and the legal notice filed by the petitioner. Consequently, a speaking order dated 5.10.2013 (Annexure-P-16) was passed, whereby the claim of the petitioner was declined.

Respondent No. 3-HUDA, in the written statement, has taken the stand that the Commissioner and Secretary to Government of Haryana, Town and Country Planning Department, had issued a letter dated 14.1.1999 (Annexure-R-3/2), whereby the modified revised pay scales with effect from 1.1.1996 were sanctioned to the post of SDE/XEN. The letter was issued with the concurrence of Finance Department. The instructions dated 14.1.1999 was adopted by HUDA, vide letter dated 15.1.1999 (Annexure-R-3/4). As such, the pay scale was correctly granted.

I have heard the learned counsel for the petitioner, the learned

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State counsel, the learned counsel for respondent No. 3-HUDA and have also carefully gone through the file.

First of all, the pay scales were granted way back in the year 1998. The petitioner retired from service on 30.4.2005 and approached this Court only in the year 2012 in the earlier writ petition, which is after 14 years when the revised pay scales were released. In this way, there is an inordinate delay in approaching this Court.

The learned counsel for the petitioner relies upon the judgment of the Apex Court in case of M.R. Gupta Versus Union of India, 1995 AIR (SCW) 4675, wherein it was held that if the proper pay fixation is contrary to law, it is not one time action and recurring cause of action. Therefore, the bar of limitation and latches will not apply. Similar view was taken by a Full Bench of this Court in case of Saroj Kumari Versus State of Punjab, 1998 (3) RSJ 350. It being so, this Court proceed to decide the controversy on merits.

Admittedly, the petitioner was given selection grade on completion of 12 years of service with effect from 4.8.1993, vide order dated 13.4.1999 (Annexure-P-3). In this way, the selection grade was granted before the report of the Fifth Pay Commission was implemented in the year 1998 with effect from 1.1.1996.

The learned counsel for the petitioner heavily relies upon the corresponding conversion table (Annexure-P-4), issued under Haryana Civil Services (Revised Pay Rules) 1998 and notified on 7.1.1998, wherein for the pay scale of Rs. 4100-125-4850-150-5300, the corresponding pay scale is Rs. 13500-375-17250.

However, the stand of the respondent is different. The stand of

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the respondent is that HUDA is an autonomous body and it was not bound to accept the recommendations of the Pay Commission. As such, it has been argued that for the purpose of fixation of pay of the employees of HUDA, a letter dated 14.1.1999 (Annexure-R-3/2) was issued, whereby the recommendations of the pay commission were accepted with some further modification with effect from 1.1.1996, as detailed in Annexure-'A'. In the Annexure-'A', in case of XEN (Civil/Electrical/Horticulture), in place of revised pay scale of Rs. 10000-325-13900, the pay scale of Rs. 10000-13900 was given and in case, such XENs has completed 11 years of regular satisfactory service or more as SDEs and above, the pay scale of Rs. 12000-16500 was given. It is this scale, which was given to the petitioner and with which he is not satisfied. It goes to show that the recommendations of the 5<sup>th</sup> Pay Commission, as implemented, were not accepted by the HUDA and these were accepted with some modifications. Probably, this fact was within the knowledge of the petitioner. Now, the petitioner claim the said scale on the basis of judgment passed by this Court in LPA No. 797 of 2013, titled as The State of Haryana and others Versus S.P. Gupta, which was upheld by the Division Bench of this Court on 26.4.2013. In the said case, Mr. S.P. Gupta was working in the Irrigation Department, which is under the Haryana Government. It does not pertain to HUDA. The authority of the Hon'ble Supreme Court of India in Special Leave to Appeal (Civil) CC 4572-4575 of 2014, titled as State of Haryana and another Versus Chander Singh Sharma etc., (decided on 28.3.2014) also pertains to the Irrigation department.

However, as noticed above, HUDA implemented the recommendations of the 5<sup>th</sup> Pay Commission with certain modifications,

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therefore, the pay of the petitioner was accordingly fixed. This Court does not find any illegality in the fixation of the pay. Accordingly, the present writ petition is dismissed.

(KULDIP SINGH)  
JUDGE

3.8.2016  
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No