

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

CWP No.6741 of 2013 (O&M)

Date of decision: 29.01.2016

Rajender Singh

...Petitioner

versus

Uttar Haryana Bijli Vitran Nigam and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ram Niwas Sharma, Advocate,
for the petitioner.

Mr. P.S. Poonia, Advocate,
for the respondents.

RITU BAHRI, J.

Petitioner is seeking a writ of certiorari for quashing of order dated 30.08.2012 (Annexure P-8), whereby stepping up pay of the petitioner w.e.f. 01.02.1998, which was already made vide letter dated 10.03.2008 (Annexure P-6), has been withdrawn on the ground that he was initially appointed as Chowkidar and thereafter, promoted to the post of Metre Reader and got one financial up-gradation.

Petitioner was appointed contingent Chowkidar on 05.11.1979. Later on, his services were made adhoc w.e.f. 02.01.1981 and thereafter, he was regularized w.e.f. 01.01.1984 as Chowkidar under the regularization policy/rules. On the basis of seniority cum eligibility, he was promoted to the post of Meter Reader w.e.f. 16.07.1986. Thereafter, the respondent-Nigam had revised the pay scale of its employees w.e.f. 01.01.1996. ACP Scheme was also introduced, as per which, an employee was allowed Ist ACP scale on completion of 10 years and 2nd ACP scale after 20 years of regular

satisfactory service, if the employee has not availed any promotion in his hierarchy and has not been allowed any financial up-gradation. In view of the judgment dated 02.08.2006 (Annexure P-1) passed by the Hon'ble Supreme Court, the Financial Commissioner & Principal Secretary to Government of Haryana, Finance Department vide order dated 23.11.2006 (Annexure P-2) directed all the concerned departments to step up the pay of senior employees at par with the juniors. Thereafter, the Finance Department, Haryana, vide letter dated 06.02.2007 (Annexure P-3) extended the benefit of stepping up the pay of seniors at par with their juniors in the ACP matter in respect of all the officials promoted from Group 'D' to 'C', who are similarly placed. The respondent-Nigam, vide letter dated 05.03.2007 (Annexure P-4) also extended the benefit of stepping up of pay of senior employees at par with their juniors in ACP matters. Further, the Finance Department, Haryana, vide orders dated 13.04.2007 (Annexure P-5) allowed the ACP scales to the senior employees from the date the same had been allowed to their juniors. Accordingly, vide order dated 10.03.2008 (Annexure P-6), the petitioner was allowed stepping up of pay at par with Sh. Ram Avtar, Meter Reader. Thereafter, a show cause notice dated 03.01.2012 (Annexure P-7) was issued to the petitioner for withdrawal of stepping up of pay and thereafter, vide impugned order dated 30.08.2012 (Annexure P-8), the said benefit has been withdrawn.

Upon notice, written statement on behalf of respondent Nos. 1 and 2 has been filed, wherein it has been stated that the pay scales of officials were revised by the erstwhile HSEB vide office order No.705/5 dated 24.02.1998 w.e.f. 01.01.1996 (Annexure R-2/1). The service of the petitioner has been regularized w.e.f. 01.01.1984 as Chowkidar. As per office order

dated 20.02.2004 (Annexure R-2/2), the functional pay scale of this post is Rs.2650-65-3300-EB-70-4000 and modified 1st ACP scale is Rs.3050-75-3950-EB-80-4350 and 2nd ACP scale is Rs.4000-100-4800-EB-100-6000. Entitlement of the petitioner is to be considered with reference to the regular post of Chowkidar. It was further stated that Ram Avtar was directly appointed as Meter Reader and he was entitled to the Ist ACP after completing 10 years of regular service as Meter Reader. The impugned order has been rightly passed as the petitioner cannot claim ACP, which is applicable to the post of Meter Reader, on which Ram Avtar had been appointed. Issue of stepping up of pay does not arise as Ram Avtar, Meter Reader, was recruited directly.

Learned counsel for the petitioner has placed on record copy of judgment dated 08.01.2015 passed by this Court in **Rajbir Singh Vs. Uttar Haryana Bijli Vitran Nigam Limited and others**, CWP No.25750 of 2013 as Annexure A-1. In that case, the pay scale of petitioner-Rajbir Singh already stepped up at par with his junior Ajay Kumar, LDC, had been withdrawn and an amount of Rs.1,36,762/- was ordered to be recovered. The writ petition was allowed by following the judgment passed by the Hon'ble Supreme Court in **Commissioner and Secretary to Government of Haryana and others Vs. Ram Sarup Ganda and others**, Civil Appeal No.3250 of 2006 (decided on 02.08.2006) and impugned order withdrawing the said benefit had been set aside. The aforesaid judgment was also followed by a Coordinate Bench of this Court in **Satya Narain Sharma Vs. Uttar Haryana Biuli Vitran Nigam and another**, CWP No.6829 of 2013, decided on 24.04.2015 (Annexure A-2).

In the facts of the present case, the petitioner after being

appointed as Chowkidar on 05.11.1979 was promoted as Meter Reader w.e.f. 16.07.1986 and was allowed functional pay scale of Rs.1200-2040. At the same time, Ram Avtar who was directly appointed as Meter Reader on 13.01.1988, was allowed Ist ACP w.e.f. 01.02.1998 on completion of 10 years of regular satisfactory service. For all intents and purposes, the petitioner who was promoted as Meter Reader w.e.f. 16.07.1986, was senior to Ram Avtar. The petitioner was rightly granted stepping up of pay at par with Ram Avtar in terms of orders/instructions dated 02.08.2006 (Annexure P-1), 23.11.2006 (Annexure P-2), 06.02.2007 (Annexure P-3) and letter dated 05.03.2007 (Annexure P-4). In **Rajbir Singh's** case (supra), this Court has observed that the instructions issued by the respondent-authority pursuant to the decision given by a Division Bench of this Court in **Prem Chand Manchanda and others Vs. State of Haryana and another**, CWP No.4563 of 2007 (decided on 09.01.2009), were on account of misunderstanding and misinterpretation. In that judgment a clear exception has been carved out.

In view of the above, this Court is of the view that the present case is squarely covered by the judgments Annexures A-1 and A-2. Hence, this petition is allowed in terms of the judgments given in **Rajbir Singh** and **Satya Narain Sharma's** case (supra). Resultantly, the petitioner is held entitled for benefit of stepping up of pay scale at par with his junior Ram Avtar, Meter Reader and the impugned order dated 30.08.2012 (Annexure P-8), whereby the said benefit has been withdrawn, is set aside.

(RITU BAHRI)
JUDGE

29.01.2016

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