

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7677-2013 (O&M)
Date of decision: 04.08.2016

R.K.Sharma

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Akshay Jindal, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The petitioner, who joined as Head Clerk with respondent department on 10.3.1981, was promoted as Superintendent-cum-Assistant Project Officer General in the pay scale of Rs.2000-3500 w.e.f. 9.12.1989. Accordingly, he was granted one additional increment after completion of 8 years service w.e.f. 1.7.1992 in terms of letter No.FD/HR/1/1/38/92-1(FD) dated 7.8.1992. The said increment was available only to class III and IV employees, later on designated as Group C and D. Now, the department, vide impugned order dated 1.1.2013 (Annexure P2) has withdrawn the said additional increment, stating that the post of Assistant Project Officer was Group B post and therefore, additional increment was not admissible and was wrongly granted w.e.f. 1992. However, it was directed that recovery cannot be made at this stage.

I have heard learned counsel for the parties and have carefully gone through the file.

The plea of learned counsel for the petitioner is that at that time, as per Annexure P3 Schedule 'A', post of Assistant Project Officer was Class II post but it was getting lower pay scale of Rs.1640-2900. The post of Office Superintendent was Class III post and it was getting higher pay of Rs.2000-3500. However, the post of Assistant Project Officer was senior to the post of Office Superintendent. The promotion order shows that the petitioner was promoted to the post of Superintendent-cum-Assistant Project Officer General. Since, the post of Superintendent was carrying higher pay scale, therefore, he was given higher pay scale of Rs.2000-3500. Now, the question would arise as to whether the said twin post is to be considered as Class III or Class II post? I am of the view that if promotion is to the two posts, the post whichever is higher is to be considered as the class of service. In the present case, the post of Assistant Project Officer was higher in class and therefore, the said promotion is to be treated as promotion to Class II, as existing at that time, though later on the post of Superintendent was also upgraded to Class II with effect from subsequent date. However, it is clear that the increment was wrongly granted treating it to be a class III post and accordingly there is no illegality or infirmity in the impugned order.

Resultantly, the writ petition stands dismissed.

04.08.2016

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No