

CWP-14-2014

1

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

Date of Decision : 15.05.2017

CWP-14-2014

RAJBIR SINGH

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondent

CWP-28412-2013

RANBIR SINGH VERMA AND OTHERS

..... Petitioners

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This common order shall dispose of abovementioned two civil writ petitions as the issue involved in these petitions are same. For the sake of convenience facts are being taken from **CWP-14-2014**.

Petitioner has approached this Court for quashing the impugned order dated 8.8.2013 (P-5) whereby the technical pay scale

CWP-14-2014

2

allowed to the petitioners have been withdrawn on the ground that the post of Assistant Store Keeper falls under Group-C non-technical category.

Brief facts of the case are that the petitioner was appointed as Helper and his services were regularised w.e.f. 01.02.1996 as Store-man and had been granted technical pay scale because of virtue of this post. Thereafter they were promoted as Assistant Store Keeper in 2006. However by impugned order 8.8.2013 the technical pay scale granted to him was withdrawn on the ground that post of Assistant Store Keeper is not a technical post and that has given rise to this petition.

The precise claim of the petitioner is that similarly situated Assistant Store Keepers in the Transport Department of Haryana had filed CWP No. 19547-2011 titled as **Jai Pal vs. State of Haryana and others** (and other petitions) and by the judgment and order dated 12.09.2012 this Court after having reliance upon Division Bench judgment in CWP No. 2032 of 2000 titled as **Attar Singh and others vs. State of Haryana and others**, decided on 17.09.2002 and the judgment of this Court in CWP No. 18754 of 1991 titled as **Gurdev Singh and others vs. State of Haryana and others**, decided on 18.01.2010 reported as **2012(2) RSJ 706** had rejected the same plea that post of Assistant Store Keeper is not a technical post and had restored the technical pay scale granted to those petitioners.

Counsel for the petitioner further states that since he was counsel in that case also he knows personally that after that judgment technical pay scale was restored to those petitioners. He further relies

CWP-14-2014

3

upon the judgment of this Court in **CWP No. 5118-2009(O&M)** titled as **Baljeet Singh and another vs. State of Haryana and others** decided on 13.06.2016, where also similarly situated Assistant Store Keepers had challenged the action of the respondents for not granting the technical pay scale to them. The stand taken by the State in the written statement was that post of Assistant Store Keeper is a non-technical post but again this Court rejected that argument and relies upon **Jai Pal's** case(Supra) and allowed the petition.

Learned Assistant Advocate General has argued that in both these cases the point that the post is not a technical post was raised but was not considered by the Division Bench and consequently while deciding the present case it would be desirable that I should consider this argument.

Even though the perusal of the judgments does not contradict the assertion made by the Assistant Advocate General yet that cannot be a complete argument. If an argument is ignored in a judgment that itself is a ground for filing an appeal but once the State has allowed the judgment in **Jaipal's** and **Baljeet's** (supra) to become final it now does not lie in its mouth to say that even though this plea was abandoned in those cases yet in this particular case this Court should decide the same.

In the circumstance, the writ petitions are allowed and the orders withdrawing of pay scale are set aside. The respondents are directed to give pay scale benefit to the petitioners within 03 months from the date of receipt of a certified copy of this order, failing which, the petitioners

CWP-14-2014

4

would be entitled to claim the same with interest @ 8% per annum on the amount/s from the date/s it fell due till the date of payments.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

15.05.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No