

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

1. CWP No.15356 of 2014

Ashok Kumar ... Petitioner

Vs.

State of Haryana and others ... Respondents

2. CWP No.15440 of 2014

Narender Kumar ... Petitioner

Vs.

State of Haryana and others ... Respondents

3. CWP No.15439 of 2014

Sher Singh ... Petitioner

Vs.

State of Haryana and others ... Respondents

Date of Decision:07.03.2017

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Narender Yadav, Advocate for the petitioner (s).

Ms. Shruti Jain Goyal, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

By this common judgment, all the aforementioned writ petitions shall be decided together as same are identical.

For the sake of convenience, facts are taken from CWP No.15356 of 2014. In the instant petition, the petitioner has questioned the validity of order dated 24.12.2013 (Annexure P-5) by which office order dated 17.7.2013 modified scale of pay granted to the petitioner is sought to be withdrawn.

The petitioner is stated to have been working against the post of motor mate and the said post was re-designated as Work Supervisor on 19.6.2012. Thus, the petitioner is entitled for technical pay scale. In this regard, respondents have passed an order dated 17.7.2013 extending the

benefit of technical pay scale. Thereafter certain developments have taken place relating to withdrawing of instructions by means of passing an ordinance on 10.12.2013 and thereafter by passing an Act in respect of technical and non-technical pay scale of the employees of the various departments in the State of Haryana. Thus, the respondents have proceeded to withdraw the technical pay scale on 24.12.2013 granted to the petitioner on 17.7.2013 from the date of entry into service by the petitioner. The petitioner has questioned the validity of order dated 24.12.2013 (Annexure P-5) on the ground that as per para-4 of the ordinance, his modified pay scale is required to be protected.

It was further submitted that identical persons who have been extended the benefit of technical pay scale has been protected in view of the ordinance read with Act. Therefore, the petitioner is entitled for similar relief.

On the other hand, learned counsel for the respondents vehemently submitted that pursuant to the office order dated 24.12.2013 (Annexure P-5), the petitioner is entitled for revised pay scale and he is not entitled for technical pay scale from the date of entry into service. Therefore, there is no infirmity in the order dated 24.12.2013 (Annexure P-5).

Heard learned counsel for the parties.

Short question for consideration in the present petition rightly or wrongly, the petitioner has been extended the benefit of technical pay scale on 17.7.2013 and he has been paid accordingly during the period from July 2013 to December 2013. The respondents have resorted for withdrawing grant of technical pay scale granted on 17.7.2013 vide order

dated 24.12.2013 without issuing any notice to the petitioner. The petitioner's right is affected in view of withdrawal of order dated 17.7.2013 as his pay would be reduced which is a civil consequences. Therefore, the petitioner is entitled for notice before affecting his pay. Hence, order dated 24.12.2013 (Annexure P-5) is set aside. The respondents are at liberty to take necessary action by issuing show cause notice how the petitioner is not entitled for technical pay scale from the date of entry into service and after receipt of reply to the show cause notice, the competent authority is directed to pass fresh order.

Petition stands disposed of.

07.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**