

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2925-2011 (O&M)
Date of decision: 09.02.2017

Sadhu Ram and others

.....Petitioners

versus

The State of Haryana and others

.....Respondents

CWP-4340-2011 (O&M)

Ishwar Singh

.....Petitioners

versus

The State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ravi Verma, Advocate for the petitioner
in CWP No.2925 of 2011
Mr.Devender Punia, Advocate for the petitioner
in CWP No.4340 of 2011
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)

This order will dispose of CWP No.2925 of 2011 and 4340 of 2011, involving similar questions of law and facts. However, for facility of reference, facts are being mentioned from CWP No.2925 of 2011.

Petitioner who were initially appointed as Clerk in the Haryana Education Department w.e.f. 18.4.1973, 22.12.1971, 22.12.1971 respectively, were promoted to the post of Assistant w.e.f. 29.4.1993, 25.1.1989 and 25.1.1989 respectively. They were further promoted from the post of Assistant to Deputy Superintendent on 1.2.2008, 4.7.2008 and

8.7.2008 respectively. On account of recommendations of the 6th Pay Commission, the Government of Haryana, Finance Department revised the pay scales of its employees w.e.f. 1.1.2006. Accordingly, in terms of the said notification the pay of the petitioners was also fixed and benefit of one increment equal to 3% of the pay in the pay band in addition to the Grade Pay corresponding to the promotional post of Deputy Superintendent, namely, Rs.3600/- from the date the petitioner assumed charge of the post of Deputy Superintendent was granted. Respondent No.1 later on issued a clarification dated 9.4.2010 to the effect that if the grade pay of the promotional post is higher than ACP structure, in which the government employee is drawing his salary prior to promotion, his pay will not be refixed and he will only get the difference of grade pay and his date of next increment will continue to be same as before promotion and it will not be treated financial up gradation under Assured Career Progression Rules, 2008. Consequently, the benefit of the one increment equal to 3% of the pay band was withdrawn.

In 2nd writ i.e. CWP No.4340 of 2011, petitioner was promoted from the post of Taxation Inspector to the post of Assistant Excise and Taxation Officer. His pay has also been reduced vide impugned order endorsed on 16.9.2010 (Annexure 3) on the basis of the instructions dated 9.4.2010.

It is stated that another instructions dated 13.5.2010 were also issued to the effect that the benefit of increment equal to 3% of the pay in the pay band is not admissible at the time of promotion in case the grade pay of the promotional post is higher than the grade pay of the feeder post. The petitioners have challenged those clarification and instructions and reduction

of salary.

After hearing learned counsel for the parties, it comes out that the matter regarding validity of the clarification and the instructions dated 9.4.2010 and 13.5.2010 regarding ACP Rules 2008 has already been adjudicated upon by this Court in Narender Pal Singh Arya and another vs. State of Haryana and others, 2017(1) SCT 254. In the said case both the said clarification/ instructions have been quashed and consequently, order of reduction of pay has also been quashed. Present case is directly covered by the said authority. Since the instructions dated 9.4.2010 have been quashed, therefore, order of pay fixation dated 28.10.2010 (Annexure P4) and the similar orders passed regarding petitioner Nos.2 and 3 respectively reducing their pay by withdrawing one increment equal to 3% of the pay in the pay band in addition to the grade pay are hereby quashed. Impugned order dated 16.9.2010 (Annexure 3) in CWP No.4340 of 2011 is also quashed.

Both the petitions are accordingly allowed. Respondents are directed to revise the pension of the petitioners and release the revised pensionary benefits within three months from the date of receipt of a certified copy of this order.

A copy of the order be placed on the connected file.

09.02.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No