

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24111 of 2013

Date of Decision:-29.03.2017.

Ved Parkash

.....Petitioner

Versus

State of Haryana and others

.....Respondent

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

Present: Mr. Gurinder Pal Singh, Advocate for the petitioner.

Mr. Hitesh Pandit, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, petitioner has questioned the validity of the order dated 30.8.2013 (Annexure P-9) by which grant of technical pay scale on 31.1.2011 has been withdrawn with reference to Rule 6.24(2) of CSR Volume-II on the ground that technical scale granted notionally from 1.5.1990 and actually from 9.8.2010.

2.) The petitioner joined service as a Pump Attendant on 3.5.1971 and he has earned promotion to the post of Water Pump Operator Grade-II on 25.3.1972. His services were regularized in the cadre of Water Pump Operator Grade-II on 24.7.1980 and he has attained age of superannuation and retired from service on 29.2.2000. With these service particulars background, the official respondents proceeded to extend the benefit of technical pay scale to the petitioner on notional basis w.e.f. 1.5.1990 and the

benefit is applicable w.e.f. 9.8.2010 which was re-fixed vide order dated 31.1.2011 (Annexure P-3). The official respondents realized that the petitioner is not entitled for technical pay in view of the fact that the petitioner has attained age of superannuation and retired from service on 29.2.2000 and his pensionary benefits have been settled with reference to non-technical pay. Withdrawal of technical pay scale granted to the petitioner is required to be examined with reference to service particulars of the petitioner for the reasons that on 31.1.2011, the official respondents have taken a decision to extend the technical pay to the petitioner on notional basis. Undisputedly, the petitioner has retired from service on 29.2.2000. Therefore, question of extending technical pay scale w.e.f. 9.8.2010 do not arise since the petitioner was a pensioner. Therefore, extending the benefit of technical pay scale on notional basis would be only during the period from 1.5.1990 to 29.2.2000, the date on which the petitioner has retired from service. In other words, technical pay scale is required to be fixed as on the date of petitioner's retirement i.e. on 29.2.2000 and then re-fixed the petitioner's pension. The contention of the respondents that the petitioner is not entitled for benefit of technical pay scale merely on the ground that the petitioner has retired from service under Rule 6.24(2) of CSR Volume-II read with last pay drawn by the petitioner cannot be accepted. Therefore, the petitioner is entitled for fixation of technical pay w.e.f. 29.2.2000, the date on which he has retired and not w.e.f. 9.8.2010 or 31.1.2011. Accordingly, Annexure P-9 dated is set aside. The official respondents are directed to extend the benefit of technical pay scale to the petitioner as if he has retired with the technical pay scale on 29.2.2000. Consequently, the petitioner is entitled for enhanced pension

from 29.2.2000 to this day. The difference of pension shall be calculated and disbursed to the petitioner within a period of four months from today.

3.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

March 29, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.