

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

Civil Writ Petition No.22334 of 2017
Date of Decision: September 29, 2017

Krishan Dass

...Petitioner

Versus

**Union of India through Secretary to Govt.of India, Ministry of Health &
Family Welfare, New Delhi & others**

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Pankaj Mohan Kansal, Advocate,
for the petitioner.

AMIT RAWAL, J.

1. The challenge in this petition is to the order dated 4.11.2015 (Annexure P-7) rendered by the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") in O.A.No.060/00646/2014, whereby the order dated 26.5.2014 (Annexure A-1) of the Assistant Admn.Officer (Engg.) PGIMER, Chandigarh declining the claim for grant of Punjab pay scale of 1800-3200 and its revision from time to time from the date of joining as Junior Engineer w.e.f. 18.5.1990, grant of financial upgradation in the Punjab Pay Scale w.e.f. 18.5.1995 on completion of five years service, grant of Punjab Pay Scale w.e.f. 18.5.2002 by partial modification of office order dated 12.3.2003 and consequently the revision of his retiral dues from the date of his retirement, i.e., 30.4.2009, has been upheld.

2. Mr.Pankaj Mohan Kansal, learned counsel for the petitioner submitted that on 29.8.1972, the petitioner was appointed as Assistant

Mechanic (Generation) (Work Charged) in the pay scale of ₹140-300. On 15.9.1973, he was appointed as Assistant Mechanic (CSSD) in the pay scale of ₹140-300. His services were regularised on 29.5.1975. On 24.10.1975, the petitioner was appointed as Technician Grade-VI (Mech.) He was selected on deputation as a Fine Mechanic on 24.02.1977 in the scale of ₹300-600 (unrevised) and in 1989 was repatriated. Throughout this period, he was getting the pay scale on the Punjab pattern. However, the respondent-Post Graduate Institute of Medical Education and Research, Chandigarh (for short "PGIMER") notified the vacancy for the post of Junior Engineer (Mech.) to be filled by direct recruitment in the pay scale of ₹1400-2300, against which the applicant-petitioner submitted his application. He was found successful and offered appointment vide order dated 17.5.1990 (Annexure A-16) on the Central pay scale instead of Punjab pay scale, i.e., ₹1800-3200. At the time of joining vide Annexure A-15 dated 18.5.1990, the petitioner drew the attention that he was already drawing the Punjab pay scale admissible to the post of Junior Engineer, i.e., ₹1800-3200 instead of Central pay scale of ₹1400-2300. He also sent a reminder dated 21.6.1990 (Annexure A-14). No doubt, the petitioner had retired on 30.4.2009 as Assistant Engineer (Mech.), but submitted his representation on 22.1.2014 for grant of the Punjab pay scales and other benefits w.e.f. 1992, which was rejected vide impugned order dated 26.5.2014 giving the cause of action to the petitioner to prefer Original Application, though the Original Application was accompanied by an application under Rule 21(3) of CAT (Procedure) Rules, 1987 seeking condonation of delay. The Original Application has been dismissed on merit and on the point of limitation. By giving the aforementioned facts, the

learned counsel for the petitioner raised the following arguments:-

- a) The posts/cadre of Superintendent (Elect.)/Foreman (Bio-medical)/Senior Tech.Bio-medical Electrograde of the Engineering Department were restructured as Junior Engineer in respective division of Engineering Department;
- b) The Department did not deny the fact that from the date of joining on 29.8.1972 till 16.5.1990, the petitioner had been drawing the Punjab pay scales;
- c) Punjab pay scale is to be granted to the categories of employees, who joined the Institute on various posts in Punjab and later on moved one step higher in their cadre by selection, which fact was not considered by the CAT.

3. All the aforementioned points have not been dealt with and pondered upon by the CAT in a correct perspective and, thus, the order under challenge is liable to be set-aside.

4. We have heard the learned counsel for the petitioner and appraised the paper book.

5. Noticing the aforementioned arguments, we are of the view that there is no force and merit in the submissions of the learned counsel for the petitioner. Admittedly, when the petitioner was directly appointed as Junior Engineer (Mech.) on 17.5.1990 (Annexure A-16), he was put on Central pay scale. He had made a representation immediately in the year 1990, but did not agitate the matter thereafter. As per the averment made in ground No. (vii) Para 2 of the writ petition, his representation on this aspect was rejected by the Superintending Hospital Engineer vide letter dated 16.4.1993 (Annexure A-9). The contents of the letter read thus:-

“From

*The Supdg.Hospital Engineer,
P.G.I.Chandigarh.*

To

*The Hospital Engineer,
Biomedical Division,
P.G.I.Chandigarh.
No.PGI/Engg./SHE/93/3969*

Dated: 16.4.93.

*Subject: Establishment-Junior Engineer (Mech.)-Sh.Krishan
Dass-Request for grant of Pb.pay scale in pursuance of
decision of Governing Body.*

*Reference your letter No.PGI/Engg./Biomed./1308 dated
18.9.92 on the subject cited as above.*

*Representation of Sh.Krishan Dass, J.E. (Mech.) has
been considered sympathetically and rejected as decision of
the Governing Body dated 14.11.84 is not applicable in this
case. He may be informed accordingly.*

Sd/-

*Supdg.Hospital Engineer,
P.G.I., Chandigarh.*

Endst.No.PGI/Engg./Biomed./93/120 dated 19.4.93.

*Copy to Sh.Krishan Dass, Junior Engineer (Mech.) for
information.*

Sd/-19.4.93

*Hospital Engineer,
Biomedical Division,
P.G.I., Chandigarh.”*

6. No explanation has come on record that the petitioner agitated his claim, particularly before the authorities, whereas he received the promotion from Junior Engineer to Foreman Grade-II and then to Assistant Engineer. Even the explanation of moving the representation in 2014 after having superannuated on 30.4.2009 on the premise that some other

applicants pursued the matter cannot be accepted, as such averments have not been substantiated by any material on the record. The terms and conditions of the appointment letter are sacrosanct. The petitioner once having accepted the appointment cannot resile back and agitate the issue of claiming the pay scale on the Punjab pattern as noticed by the CAT while dismissing the Original Application.

7. The findings of the CAT, in our view, do not warrant any interference and the same cannot be said to be illegal or perverse, therefore, no fault can be found with it. Resultantly, the writ petition is dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

September 29, 2017
ramesh

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No