

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: January 19, 2017

1) C.W.P. No. 3893 of 2016

Ram Lal Malik and another

... Petitioners

Versus

State of Haryana and another

... Respondents

2) C.W.P. No. 5042 of 2016

Khem Bhadadur and others

... Petitioners

Versus

State of Haryana and another

... Respondents

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

Present: Mr. Ravinder Malik (Ravi), Advocate,
for the petitioners.

Mr. Harish Rathree, Sr. DAG, Haryana.

P.B. Bajanthri, J. (Oral)

1. By this common order, both the civil writ petitions i.e. CWP Nos. 3893 and 5042 of 2016 are being decided together as common questions of law and facts are involved in these writ petitions. However, for brevity, facts have been taken from CWP No.3893 of 2016.

2. In the instant writ petition, the petitioners have questioned the validity of speaking order dated 10.02.2016 (Annexure P/28).

3. The petitioners were working in the cadre of Tradesman Mate.

The respondents have recruited Tradesman Mate with a technical qualification on the prescription and later on, rules of recruitment have been amended by incorporating technical qualification like I.T.I. In view of prescription of technical qualification later, the respondents have resorted to distinguish with two sets of pay scales; one is technical pay and another is non-technical pay. The persons like the petitioners who do not have the qualification of ITI would fall under non-technical pay scales. By virtue of Court's orders, the pay of non-technical and technical were equated and non-technical persons were allowed to draw technical pay scales. In this regard, a large number of litigation were filed before this Court and matter went upto the Supreme Court and Supreme Court dismissed the State's appeal on 07.07.2015. The petitioners also approached this Court by filing CWP No. 20830 of 2011. The same was disposed of on 12.12.2012 that the petitioners are entitled for technical pay scales. The respondents have implemented the order passed in CWP No. 20830 of 2011 subject to pendency of various litigation. The respondents preferred LPA before this Court against the order dated 12.12.2012 passed in CWP No. 20830 of 2011. During the pendency of the LPA, the State respondent brought Ordinance to the extent of withdrawing the various orders in respect of granting technical pay scales etc. Pursuant to the Ordinance, the LPA was disposed of on 29.01.2014 with following orders:-

“In this view of the matter, we allow the appellants to withdraw this appeal. The order passed by learned Single Judge on 12.12.2012 shall have no affect qua the parties. However, liberty is granted to the respondents to lay challenge to the said Ordinance by filing writ petition and raising therein all pleas

including those raised in this appeal and also the plea that the Ordinance is not applicable to the respondents.

29.01.2014

*Sd/-
(Jasbir Singh)
Judge*

*Sd/-
(Harinder Singh Sidhu)
Judge”*

4. Thereafter, the petitioners filed review application in the LPA and the same was disposed of on 29.05.2014 by passing the following order:-

“RA No. 49 of 2014:

Counsel for the applicants states that in view of proviso to Section 4 of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014, the applicants have right to get technical pay scale.

If that is so, the applicants may approach the authorities concerned.

In view of above, this review application stands disposed of.”

29.05.2014

*Sd/-
(Jasbir Singh)
Judge*

*Sd/-
(Harinder Singh Sidhu)
Judge”*

5. In this background, the petitioners are stated to have moved a representation before the respondents seeking for extending benefits of arrears of pay with reference to extending the technical pay scale which were extended on 19.03.2013 and further sought for pay protection in respect of personal pay. The respondents have rejected the claim of the petitioners insofar as the arrears of pay as well as protection of technical pay

on the ground that the petitioners have not made out a case for extending the benefits of technical pay scale read with Ordinance and Acts.

6. Heard learned counsel for the parties.

7. Perusal of the orders passed in CWP No. 20830 of 2011 read with LPA No. 947 of 2013 and Review Application, the petitioners are not entitled for the benefit of Technical Pay and arrears. The petitioners have accepted the order passed by the LPA Bench to the extent that orders passed by learned Single Judge on 12.12.2012 shall have no effect qua the parties. Thus, the decision passed by learned Single Judge is not binding on either of the parties viz., the petitioners and the respondents.

8. Having regard to these facts and circumstances read with conditions imposed while extending the technical pay on 19.03.2013, rightly the respondents have issued the order on 10.02.2016 that the petitioners have not made out a case for seeking the benefits of technical pay, arrears of pay as well as treating it as personal pay. Thus, the petitioners have not made out a case insofar as interference with order dated 10.02.2016 (Annexure P/28).

9. Accordingly, both the writ petitions i.e. CWP Nos. 3893 and 5042 of 2016 are dismissed.

January 19, 2017
vkd

[P.B. Bajanthri]
Judge