

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

**CWP-11189-2015 (O&M)
Date of decision : 04.07.2018**

Zora Singh and others

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Thiara, Advocate for the petitioners.

Ms. Deepali Puri, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The petitioners claim one advance increment upon their upgradation/promotion to the post of District Veterinary Inspector vide order dated 23.10.2013 (Annexure P-3).

Learned counsel contends that vide letter dated 15.12.2011 (Annexure P-1), 22 posts of Veterinary Inspectors were upgraded as District Veterinary Inspectors. It was further decided that the pay of the Veterinary Inspectors shall stand revised with effect from 01.12.2011. However, said letter was not given effect to and the petitioners were constrained to approach this Court. Consequently, the petitioners were upgraded/promoted vide order, Annexure P-3, w.e.f. 01.12.2011, however, they were not granted the benefit of one increment upon their upgradation to the

promotional post of District Veterinary Inspector. Feeling aggrieved, the petitioners again approached this Court vide CWP No.6963 of 2014, which was disposed of with a direction to decide the representation moved by the petitioner within a specific time. Accordingly, respondent No.2 rejected the representation of the petitioners vide order dated 25.01.2015 (Annexure P-5) on the ground that increment is to be granted only on promotion and not on placement to a higher post. Learned counsel refers to Rule 4.4, Volume I, Part I, of the Punjab Civil Services Rules, to contend that the petitioners are entitled to one advance increment as the new post involves assumption of duties or responsibilities of greater importance.

On the other hand, learned State counsel submits that in the instant case, the petitioners were never promoted, rather, their posts were upgraded from Veterinary Inspectors to District Veterinary Inspectors and they were placed in the higher pay scale accordingly. Therefore, in the absence of any 'promotion', the petitioners are not entitled to one advance increment.

Heard.

Rule 4.4(a)(i) (ibid) reads as under:-

“Rule 4.4- The initial substantive pay of a government employee who is appointed substantively to a post on a time scale of pay is regulated as follows:-

(a) If he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post had his lien not been suspended.

(i) When appointment to the new post involves the assumption of duties or responsibilities of

greater importance (as interpreted for the purposes of rule 4.13) than those attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post.”

It is not in dispute that the post of District Veterinary Inspector has attached to it, much higher responsibilities as against the post of Veterinary Inspector. It is also admitted fact that upon grant of upgradation to the post of District Veterinary Officer, the pay of the petitioners was fixed in the higher pay scale and subsequently, they have been getting higher pension after retirement than what they would have got had their posts not been upgraded. Thus, the petitioners have been granted all the benefits attached to the higher post, except the benefit of one advance increment, which in the opinion of this Court, is on a wrong premise. Hon'ble the Supreme Court in ***State of Punjab Vs. Lal Singh, 1998(1) S.C.T. 52***, has laid down as under:-

“A reading thereof would clearly indicate that initial substantive pay of a Government employee who is appointed substantive to a post on a time-scale of pay, is regulated, if he holds a lien on a permanent post, other than a tenure post and when appointment to the new post involves the assumption of duties or responsibilities of greater importance, then he will draw as initial pay the stage of the time scale next above his substantive pay in respect of the old post. Thus, it could be seen that when JBT Teacher was appointed temporarily as a Head Teacher, he is entitled to draw,

since he is holding responsibilities of greater importance as a Head Teacher, one advance increment in the old post in the time scale next above the substantive pay on the date of his temporarily promotion as a Head Teacher.”

In the case in hand as well, the petitioners were holding responsibilities of greater importance as District Veterinary Inspectors and thus, were entitled to one advance increment in the old post in the time scale next above the substantive pay on the date of their upgradation/placement to the next higher grade of District Veterinary Inspector.

At this stage, learned counsel for the petitioners states that he does not press the petition to the extent of arrears of salaries upon re-fixation of pay.

In view of the above the instant petition is partially allowed to the extent of grant of one advance increment, as noticed above, and thereafter, restructure of their pensionary benefits, expeditiously, preferably within three months from the date of receipt of certified copy of this order.

04.07.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No