

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

**CWP No.11128 of 2016 (O&M)
Date of Decision: 11.09.2018**

Sukhbir Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ravi Malik, Advocate, for the petitioner.

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

RITU BAHRI, J. (ORAL)

CM No.11510-CWP No.2018

Replication to the written statement has been filed by way of present application.

Application is allowed and replication is taken on record.

Main Case

In the present writ petition petitioner prays for issuance of a writ in the nature of Certiorari for quashing of the order passed by Deputy Commissioner dated 12.03.2015 (Annexure P-5) whereby the claim of the petitioner has been rejected.

The petitioner initially was appointed as Clerk on 25.01.1990 and he was promoted as Assistant Wasal Baki Navis (AWBN). Thereafter petitioner was further promoted as WBN (Wasal Baki Navis) on 01.11.1997 and after promotion his pay scale was determined as 5000+80 + special Pay. Petitioner has referred to the instruction issued by the Financial Commissioner dated 11.10.2010(Annexure P-2) whereby refixation of pay has to be made on his promotion where the functional pay scale of the feeder post and functional scale of the promotion post are identical. In the case of the petitioner, at the time of promotion of DRA no benefit of increment was given by the department to the petitioner whereas as per instructions (Annexure P-2) he was entitled to one increment equal to 3% of the pay in the pay band plus the existing grade pay to be rounded off to the next

multiple of 10. The benefit of these instructions has not been granted to the petitioner while he was promoted as DRA(District Revenue Accountant) on 24.09.2014. This factual position is not being denied by the respondents in their reply filed on behalf of respondents No.1 to 3. The only ground taken is that petitioner has already getting the pay scale (because of ACP etc.) higher to that which he would get after promotion under Sub Rule (2) of Rule 15 of the ACP Rules, 1998 which is stated that first and second ACP scale as a personal measures and then get promoted and the functional pay scale of the promotion post is equal to or lower then the scale in which he is already drawing his pay as a measure personal to him, his pay will not be refixed. They have referred to the instructions dated 09.04.2010 of the Haryana Government where it has been stated that he was first in receipts of ACP scale and then got promoted to the post of DRA as such is not entitled for the benefit of increments on promotion. However, the instructions dated 11.10.2010 (Annexure P-2) has further clarified that if the feeder and promotional posts are identically placed in the same grade pay, on promotion the incumbent employee shall be entitled to one increment equal to 3% of the pay in the pay band plus the existing grade pay to be rounded off the next multiple of 10.

In view of the above, the present writ petition is allowed and respondents are directed to revise the pay of the petitioner as per instructions dated 11.10.2010 and to give him additional increment (one increment for TRA and increment one for DRA) on promotion as TRA vide order dated 25.08.2011 and on promotion as DRA on 24.09.2014 with all consequential benefits with interest @ 6% per annum.

(RITU BAHRI)
JUDGE

11.09.2018
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>