

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

CWP No.17342 of 2016 (O&M)

Date of decision: 27.08.2018

Jagat Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Pankaj Sharma, Advocate,
for the petitioner.

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

Ritu Bahri, J.

Petitioner is seeking a writ in the nature of certiorari quashing the order dated 14.07.2016 (Annexure P-20) passed by respondent No.1, whereby claim of the petitioner for grant of pay scale of the post of Cook has been rejected.

Background of the case is that earlier, requisition was sent for the post of Cook-cum-Godown Attendant-cum-Watchman to the employment exchange-respondent No.3, whereupon and the respondent No.3 had written a letter dated 02.08.1985 to the respondent-corporation asking, as to whether one person can be appointed for three jobs. Consequent upon the said letter, respondent-corporation sent its reply dated 09.09.1985 (Annexure P-3). As per information received under the Right to Information Act, 2005 (Annexure P-4), one post of Cook had been created by the Corporation and thereafter, requisition was sent. Thereafter, the petitioner was given appointment to the post of Cook-cum-Godown Attendant-cum-Watchman vide order dated 14.05.1987 (Annexure P-5 collectively). At the

time of appointment, the petitioner was given the pay scale of a Peon i.e. Rs.300-430/-. Learned counsel for the petitioner has relied upon the notification dated 21.07.1980 (Annexure P-22), as per which, initial pay scale of a Cook, in other departments, was Rs.110-225, revised pay scale Rs.400-600/-. Vide letter dated 15.01.2016 (Annexure P-14), the respondent-corporation sought advice from the Additional Chief Secretary to Government of Haryana, Agriculture Department, regarding grant of pay scale of the post of Cook to Shri Jagat Singh-petitioner. Upon which, The Additional Chief Secretary, Government of Haryana, vide letter dated 27.01.2016 (Annexure P-15), sought the following information along with documents, from respondent-corporation:-

1. Complete file of Sh. Jagat Singh regarding his appointment.
2. Requisition letter being sent to Employment Exchange.
3. Report of Committee vide which post of Sh. Jagat Singh from Cook to Cook-cum-GACW was converted.
4. When the approval from Finance Department was taken and the letter of approval from Finance Department for the conversion of post from Cook-cum-GACW.
5. Is the post of Cook-cum-GACW is here in the rules of the Corporation.
6. Copy of complaint by Sh. Jagat Singh to CM Window.

In response to the letter (Annexure P-15), the information was sent vide letter dated 24.02.2016 (Annexure P-16). In this information, it has been specifically stated that there is no post of Cook-cum-Godown Attendant-cum-Watchman existing in the Corporation. It is further admitted that as per record, approval of the Finance Department for the post of Co-

cum-GACW was not obtained. Hence, once, the Finance Department had never granted such approval, as per information given under the Right to Information Act, 2005 (Annexure P-4), the post of Cook had been created and thereafter, requisition was sent for appointment of the petitioner as Cook.

In the present case, the respondent-corporation has exploited a Class-IV employee (petitioner) and did not granting him the pay scale of a Cook. The Corporation has converted the post of Cook to the post of Cook-cum-Godown Attendant-cum-Watchman without following the due procedure and simply vide a letter issued by the Managing Director. In fact, the petitioner was appointed on the post of Cook by the respondents and he should have been granted the pay scale of the post of Cook. In these circumstances, the petitioner is entitled to get the pay scale of the post of Cook i.e. Rs.400-600/- with effect from the date of his appointment in the respondent-corporation.

In view of the above discussion, the impugned order dated 14.07.2016 (Annexure P-20) is set aside and the respondents are directed to grant the pay scale of the post of Cook to the petitioner with effect from the date of his appointment along with all consequential benefits. He is also held entitled to all the arrears along with interest at the rate of 6% per annum.

The petitioner stands allowed accordingly.

27.08.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No