

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

CWP No. 8770 of 2010

Date of Decision: 02.08.2018

Dariya Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Hari Om Sharma, Advocate for the petitioner.

Ms. Shruti Jain Goyal, DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner was working as Senior Draftsman in the Haryana State Small Industries and Export Corporation Limited (in short 'HSSIIEC') from 15.04.1981 to 13.03.2001. He was retrenched from the Corporation and was granted all the retiral and the retrenchment benefits from HSSIIEC in terms of the State Government guidelines dated 06.02.2001. Thereafter, he was absorbed in the Department of Mines and Geology Haryana as a fresh appointment on compassionate grounds in a pay-scale of Rs. 5500-9000/- whereas the functional pay-scale of the post of Senior Draftsman in the erstwhile organization was Rs. 5000-7850/- and his pay was fixed in the pay-scale of Rs. 5500-9000/- on account of grant of 'higher standard pay-scale' which was a measure personal to him. Once he was absorbed in the Government Department that pay scale was protected. In this petition, the petitioner seeks claim from the Department on the basis of pay

scales granted to employees with the identical designations in other departments. These facts appear not to have been present in the mind of the Director, Department of Mines and Geology Haryana when he started a crusade in favour of the petitioner as if it was a case of pay anomaly. There was no pay anomaly, and, therefore, the exercise in Annex. P-7, being the recommendations of the Director, considered by the High Powered Officers Committee (in short 'HPOC') again in favour of the petitioner by treating it a case of pay anomaly.

2. It is rather apparent that neither did the Director nor the HPOC address the real issue before them equating the post in the three departments as identical. They fell in error of reasoning in reaching the conclusion to wrongly advised stepping up the pay/pay scale of the petitioner. In any case, the recommendations could only have been accepted or rejected by the Finance Department of the State of Haryana. It may be relevant to mention that even in the recommendations of the Director he used the word “sympathetically” so that the pay anomaly is removed. There can hardly be a comparison between the post of Senior Draftsman in the Department of Town and Country Planning, the Department of Architecture and in the Department of Mines and Geology where the petitioner works. That apart, there is no specific pleading in the petition of the job requirements, duties and responsibilities, essential qualifications of a Senior Draftsman in the Department of Mines and Geology and those in the other departments.

Complete identicalness is required to apply the rule of “equal pay for equal work” in one Department equal to the other. Merely by virtue of common designation and nomenclature of posts, relief cannot be blindly granted to the petitioner for higher pay and pay scale.

3. It is averred in paragraph 10 of the written statement that leave alone the difference in the nature of duties and responsibilities of Senior Draftsman in the other cited departments, even in terms of qualifications prescribed for the post of Senior Draftsman in the Department of Town and Country Planning and the Architecture Department with which the petitioner is claiming parity, he has no actionable claim while a comparative analysis of the posts would show that even the qualifications are not identical. The table is reproduced as below.

Sr. No.	Department	Qualifications Prescribed	Remarks
1.	Mines & Geology	• Diploma in Civil, Mechanical Draftsmanship from recognized institute; • 8 years experience as Draftsman; • Knowledge of Hindi up to Matric	Diploma is the basic qualification which is a three year course from Polytechnics and not a 'Certificate' course which is granted by an ITI
2.	Town & Country Planning Department	• Intermediate in Architecture or should have passed three year degree course in architecture from an institution; or • Three year Diploma in Architectural	The qualifications prescribed are varied than those prescribed in the case of Mines & Geology Department.

		Assistantship from an Institute with two years experience as a Draftsman in the Architectural or Town Planning Office; or • Diploma in Civil Draftsmanship from an institution with three years experience in an architectural or town planning office	
3.	Architecture Department	• For Assistant Draftsmanship Diploma in Architectural Assistantship • For Junior Draftsmanship Diploma in Architectural Assistantship with two years experience after qualifying. • For Sr. Draftsman Four years experience as Junior Draftsman	The Diploma is a three year course and constitutes the basic qualification for the lowest post of 'Assistant Draftsman' in the hierarchy whereas a person having a Certificate is eligible to be draftsman in the Mines & Geology Department.

4. The principle of equivalence of the post of Senior Draftsman in the Department of Mines and Geology with the counterpart post in the other two Departments is a highly misconceived notion in the mind of the petitioner when neither on account of nature of duties and responsibilities; the hierarchy of posts in these Departments or in the educational qualifications prescribed for the posts can they be treated on par.

Merely because the designation and nomenclature are the

same, it does not mean there is pay anomaly or the posts are absolutely one and the same to support the case of the petitioner. The petitioner is already recipient of an unfair advantage from the beginning enjoying higher pay-scale (but with pay protection) and, therefore he is not in my view entitled as a matter of right to any of the claims made in this petition.

5. Learned State counsel relies on the judgment of this Court in Ram Rattan and others Vs. State of Haryana and another; 2017 (3) SCT 440. This case presents facts and legal issue which are not far off the point to the facts of this case.

For the above reasons, I find no merit in this petition and order it to stand dismissed. However, there will be no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

02.08.2018

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