

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

CWP No.8347 of 2016 (O&M)

Date of decision: 30.10.2018

Ramesh Chand Bhardwaj

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Parveen K. Kataria, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana.

Ritu Bahri, J.

The petitioner is seeking a writ in the nature of certiorari quashing the order dated 23.07.2015 (Annexure P-7), whereby his claim for grant of pay scale of the post of Superintendent (on which he had worked from 04.08.2011 to November, 2014) has been declined.

Initially, the petitioner was appointed as Clerk on 25.04.1975 and was promoted to the post of Deputy Superintendent on 15.09.2011. He was given additional charge of the post of Superintendent on 04.08.2011 by the District Education Officer, Jind and thereafter, he was given the current duty charge of the post of Superintendent Incharge on 11.08.2014 by the Governor of Haryana, in his own pay scale. Ultimately, the petitioner retired from service as Superintendent on 31.08.2014. At the time of giving

current duty charge, he did not fulfill the requisite experience of the post of Superintendent and hence, he was not held entitled to the pay scale of the post of Superintendent.

Short question for consideration in the present petition is, “whether petitioner-Ramesh Chand Bhardwaj, who was a Deputy Superintendent, has a right to claim salary of the post of Superintendent, on which he had worked from 4.08.2011 till 11.08.2014.”

Vide impugned order dated 23.07.2015 (Annexure P-7), his representation for grant of pay scale of the post of Superintendent has been rejected on the ground that as per Haryana Education Department Sub Offices, Ministerial (Group B) Service Rules, 1998, at least, three years experience as Head Clerk is required by a Deputy Superintendent, for promotion to the post of Superintendent.

Reference, at this stage, can be made to a judgment passed in **Subhash Chander vs. State of Haryana and others**, CWP No.21358 of 2008 (decided on 20.12.2011). In that case, the Full Bench was examining the Haryana Municipal Service (Integration, Recruitment and Conditions of Service) Rules, 1982. Rule 4.13 of the said Rules provides that if, a Government employee is appointed to officiate a post involving assumption of duties and responsibilities of greater importance than those attaching to the post held by such an employee on which, he holds a lien or would have held his lien, had it not been suspended, then he is entitled to pay of the higher post. While interpreting the above said rule, it has been observed that if, the officiating promotion exceeds three months, then the officer concerned may be granted the pay of higher post, which is further mandated

observed as under:-

“12. A close examination of Rule 4.13 of the Rules would show that once a person like the petitioner has been given independent charge of a post, which involves assumption of duties and responsibilities of greater importance than the one attaching to the post held by such an employee on which he holds a lien or would have held his lien, had it not been suspended, then he is entitled to pay of the higher post. A post is regarded to involve assumption of duties and responsibilities of greater importance if, it carried higher pay scale than the one on which he holds the lien. In the present case, the pay scale of the post of Accountant is lower than that of the post of the Secretary.”

Subsequently, the above said judgment passed followed in **State of Haryana and another vs. Krishan Chander Rana**, LPA No.275 of 2016 (decided on 23.02.2016).

In the facts of the present case, even though the petitioner was working as Deputy Superintendent, but he was given the additional charge of the post of Superintendent w.e.f. 04.08.2011. Thereafter, he was given current duty charge of the said post on 11.08.2014. Meaning thereby, he had worked on the post of Superintendent for more than three years. The ratio of Full Bench judgment in **Subhash Chander's** case (supra) is directly applicable to the facts of the present case. Hence, the ground taken by the respondents in rejecting the claim of the petitioner that he did not have requisite experience of three years, is not sustainable in the eyes of law. Once, the petitioner had discharged the duties and responsibilities of a higher post, he is entitled to the pay scale of the said (higher) post.

In view of the above discussion, the petitioner is held entitled to the higher pay scale from the date he had assumed the charge of the post of Superintendent with all consequential benefits. His pay is ordered to be re-

annum, within a period of three months from the date of receipt of certified copy of this order.

The petition stands allowed accordingly.

30.10.2018
ajp

(RITU BAHRI)
JUDGE

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