

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1874 of 2016 (O&M)
in CWP No. 15902 of 2016
Date of decision:17.01.2018

Kulwant Singh

.... Appellant

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Pawan Kumar Goklaney, Advocate for the appellant.

B.S. Walia, J.

[1] Challenge in this intra-court appeal is to order dated 08.08.2016 dismissing the writ petition claiming grant of higher pay scale on the basis of notification dated 11.07.1967 wherein Technical/Semi-skilled Workers were granted higher pay scale on account of possessing certificate of Matriculation and two years Technical Training Certificate from Industrial Training Institutes.

[2] The appellant, who is Matriculate with three years Diploma, was appointed as Liquid Nitrogen Plant Operator on 27.02.1996 on temporary basis whereafter his services were regularized on 11.09.2003. Recruitment of the appellant as Liquid Nitrogen Plant Operator on 27.02.1996 was as per the Punjab Animal Husbandry (Non-Ministerial)

Class III, Service Rules, 1992 (hereinafter referred to as 'the Rules') in the

sanctioned pay scale of ₹950-1800. On recruitment, the appellant was granted aforesaid pay scale as also the pay revision attached with the pay scale subsequently.

[3] Claim of the appellant was based on the decision of a Division Bench of this Court in case LPA No.44 of 2009 titled as State of Punjab and others v. Rajinder Pal Gautam and others whereupon a general decision was taken vide letter dated 30.06.2011 (Annexure P-11) to grant due placement in the pay scale of ₹140-300 to all those employees who had not filed writ petitions.

[4] The Writ Court while taking into account that the claim of the appellant was for grant of hypothetical placement with retrospective effect even when he was not in service, dismissed the writ petition by holding that the prayer was totally misconceived as the decision in Rajinder Pal Gautam's case (Supra) was in the case of persons appointed on the post of Pump Operators in the Punjab Health Department between the years 1967 to 1980 and was in the background of respondents/writ petitioners therein possessing qualification of Matriculation and certificate of two years ITI and pay scale of ₹140-300 not being extended to them on the ground that they were not borne on the cadre of technical staff. Since as per the aforementioned judgment, higher pay scale was linked to educational qualification, it was held that the same could not be denied to employees who were not borne on cadre of technical staff. The learned Writ Court held that the case of the appellant was entirely different as at the time the appellant was appointed on *ad hoc* basis in the year 1996, the post was covered by 1992 Rules with a sanctioned pay scale of ₹950-1800. All subsequent pay scales, as revised, had been granted to the appellant and it

had rightly been held while declining his prayer vide speaking order dated 04.12.2013 (Annexure P-16) that the appellant could not derive any benefit from the decision in Rajinder Pal Gautam's case (Supra).

[5] We have heard learned counsel for the appellant. Admittedly, recruitment of the appellant was made in terms of the Rules in the sanctioned pay scale to the post of ₹950 - 1800 on 27.02.1996 on *ad hoc* basis. Thereafter, he was given all subsequent pay scales as revised from time to time. The petitioners in case CWP No.10759 of 1990 titled as Rajinder Pal Gautam and others v. State of Punjab and others which was decided on 30.05.2008 were appointed on the post of Pump Operators in the Punjab Health Department during the period 1967 to 1980. In the background of denial of pay-scale of ₹140-300 to the petitioners therein on the ground that although they fulfilled the qualifications, yet they were not borne on the cadre of technical staff, it was held that since higher pay scale was linked to higher qualification, the same could not be denied to those who were not borne on technical staff. However, the case of the appellant is distinguishable as the appointment of the appellant in the year 1996 was in the sanctioned pay scale of ₹950-1800 as admissible as per the Rules applicable. All subsequent pay scales as revised from time to time were also granted to the appellant. The decision in Rajinder Pal Gautam's case (Supra) as modified in appeal is not applicable as in the case of the appellant, his appointment was under the 1992 Rules with a sanctioned pay scale of ₹950-1800. The claim of the appellant is de hors the Rules applicable. The terms and conditions of appointment of the appellant are regulated in accordance with the Rules. The claim of the appellant is for grant of scale contrary to that what is provided for under the Statutory Rules.

There is no challenge to the Rules and even otherwise, the appellant cannot claim relief of recommendation of the Pay Commission report pertaining to the year 1968 when he was not even in service.

[6] For the reasons recorded above, we find no ground whatsoever to interfere with the order passed by the learned Single Judge dismissing the writ petition with costs of ₹10,000/-.

[7] Accordingly, the present appeal is dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

17.01.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.