

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1850 of 2019 (O&M)
Date of Decision: 21.05.2019

Sachin Mor

... Petitioner

Versus

Punjab and Haryana High Court through its Registrar General

... Respondents

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

Present: Mr. Uttam Kumar, Advocate,
for the petitioner.

Mr. H.S.Dhaliwal, Advocate,
for the respondent.

RAJIV NARAIN RAINA, J

1. The petitioner is working as a Clerk on the establishment of this Court since 30.05.2012. Before joining this Court he had served as Clerk-cum-typist in one of the Subordinate Courts of Haryana w.e.f. 24.07.2009 to 29.05.2012. The petitioner joined this Court by direct recruitment through proper channel. Hon'ble the then Chief Justice had, vide orders dated 11.04.2013, granted a premature increment to all the employees on the establishment of this Court, who had completed a minimum of one year service as on 01.04.2013 and subject to certain other conditions. The petitioner had not put in the requisite period of one year service in the establishment of this Court on 01.04.2013 entitling him to the benefit of premature increment. Therefore, the petitioner was denied the benefit.

2. The representation dated 15.03.2016 submitted by the petitioner was declined by the High Court on 29.08.2018. It is mentioned that the request of the petitioner for counting of his past service rendered in the subordinate Court for the purpose of grant of promotion/higher scale had already been rejected by the High Court vide orders dated 17.05.2016 and 23.09.2016.

3. This Court in similar circumstances in '**Sat Pal Chauhan vs. Punjab and Haryana High Court & another**' (CWP No.17409 of 2016) decided on 26.08.2016 had dismissed the claim of the petitioner for premature increment while holding that:-

“The wisdom of the Chief Justice in conferring the benefit to a small group of persons for a shorter time period is not open to question and criticism on this ground especially when the petitioner has no locus standi and himself does not fit into the scheme of grant of premature increment which was by way of expression of gratitude for which parameters had to be prescribed and therefore a legitimate argument cannot be built on discrimination between the ministerial staff of establishment of this Court who were short of one year by the cutoff date and the Judges of the Subordinate or Superior Courts posted to the High Court to carry out onerous duties. No valid ground for interference is made out on any of the grounds pressed.”

An appeal filed against the above order was also dismissed by the Letters Patent Bench of this Court on 28.11.2016. There is no further appeal to the

Supreme Court. Therefore, order rejecting the claim of the petitioner in Sat Pal Chauhan's case attained finality.

4. Learned counsel for the petitioner has argued that the judgment in Sat Pal Chauhan (supra) does not apply to this case as the facts of this case are different. He submits that in Sat Pal Chauhan's case the petitioner therein was claiming parity with Judicial Officers but in the present petition the petitioner claims parity with one Ms.Santosh Rani who was working in the State Legal Services Authority, Chandigarh from the year 2006 and had been selected and appointed as Clerk on the establishment of this Court on 15.10.2008 applying through the proper channel with permission. Hon'ble the then Chief Justice on his elevation to the Supreme Court had granted one premature increment to all the employees who had completed minimum one year service as on 01.09.2009 in exercise of special powers.

5. Learned counsel for the petitioner further submits that the case of the petitioner and Ms. Santosh Rani forms the same class as both had not completed one year of service on the cutoff date. Initially, the case of Ms. Santosh Rani was not considered for grant of increment but on representation her case was considered by the High Court and she has been granted the benefit of increment. Learned counsel argues that the petitioner has suffered hostile discrimination as Ms. Santosh Rani and the petitioner belong to the same class of ministerial staff. Learned counsel further argues that the case of the petitioner may be referred back to the authorities for consideration in the light of the case of Ms. Santosh Rani as this fact was not brought to the knowledge of the authorities while rejecting the

representation of the petitioner.

6. On the other hand, learned counsel appearing on behalf of the High Court argues that there is no parity between the case of the petitioner and Ms. Santosh Rani. Case of Ms. Santosh Rani relates to the year 2009 whereas present claim of the petitioner relates to the year 2013. Moreover, Ms. Santosh Rani was granted special increment on the ground that before joining this Court she was on maternity leave. After considering her representation pleading she was on authorized leave, benefit of premature increment was granted to her as that period had to be counted toward the period required to fructify the claim.

7. Heard learned counsel for the parties and perused the record. The reason behind the grant of one pre-mature increment to the employees was for encouraging their all round good performance and cooperation in tackling the huge backlog of cases. However, this was subject to fulfillment of certain conditions. Grant of one premature increment was a concession and concessions are to be construed rationally aligned to the conferment of the benefit to serve its purposes.

8. The question that arises for consideration is, as to whether by virtue of an earlier precedent, the petitioner can claim a concession as a matter of right and whether denial of it violates Article 14 of the Constitution.

9. There is no inherent right for grant of concession if one does not fulfill the conditions designed for the benefit. In the absence of fulfillment of conditions much less the basic condition of one year service

on the establishment of this Court, no right is conferred on the petitioner to claim such concession as vested and accrued. That apart, grant of concession is a discretionary measure and the authorities are free to impose any such conditions and decide which persons should be made entitled for such a concession. The contention of the petitioner appears to be that the said concession should be granted to him solely on the ground that Ms. Santosh Rani had been granted same benefit in the year 2009. Nevertheless, the issue is as to whether having considered to grant the concession, there can be any discrimination for such of similar persons. I find no such discrimination in the matter of concession. Of course, even while the Government or its organization for that matter takes a decision to grant certain concessions to certain categories of persons, such decision should not be arbitrary and operate in violation of Article 14 of the Constitution. The concession has been granted to Ms. Santosh Rani because she was on maternity leave before joining this Court even when she had been offered appointment on the establishment of this Court but could not join because of maternity leave granted to her as a matter of right. There is no reasonable similarity and no exception can be taken to plead discrimination when there is reasonable classification to set apart the two cases. This being a decision and in the absence of any right to the petitioner, I am not inclined to hold that the non-grant of the benefit of premature increment is in violation of the principle of equality in Article 14 of the Constitution. It follows that those who are unequal cannot be treated alike.

10. For the above reasons, I am of the considered view that in the absence

of any right, the petitioner cannot seek a direction in the nature of mandamus and that too when this Court is not justified in interfering with the decision of Hon'ble the Chief Justice in exercise of his special powers conferred under Article 229 of the Constitution, which is neither arbitrary nor discriminatory and applies equally in the range of selection.

11. Accordingly, there is no merit in this petition and the same is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

21.05.2019

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