

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.17884 of 2016

Date of Decision: March 29, 2019.

Ashwani Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE ARUN MONGA.

Present: Mr.Parminder Singh-I, Advocate for the petitioner.

Mr.Abhaypal Singh Gill, AAG, Punjab.

Mr.Harsh Aggarwal, Advocate, for respondent No.4. .

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Arun Monga, J. (Oral)

This is yet another case of red-tapism where the petitioner is made to run from pillar to post between respondent No.4 on one side and respondent Nos.1 & 2 on the other side. The writ petition has been filed *inter-alia*, seeking issuance of a writ of certiorari to quash the impugned orders dated 08.03.2016 (Annexure P-8) and 17.06.2016 (Annexure P-9), whereby claim of the petitioner for the grant of Grade Pay of ₹4800/- has been rejected.

2. Briefly, the factual backdrop of the case is that vide notification dated 15.12.2011 (Annexure P-2), revision of pay-scales of various posts was directed by the Government of Punjab, Department of Finance w.e.f. 01.12.2011, wherein Grade Pay of ₹4800/- was granted alongwith Regular Pay Band for the post of Superintendent Grade-II..

3. Learned counsel for the petitioner contends that the said notification is applicable, *mutatis-mutandis*, to the Municipal Corporation,

Jalandhar. He further submits that on a representation submitted by the petitioner, the respondent-Corporation had recommended grant of Grade Pay as per the notification dated 15.12.2011, but respondent Nos.1 & 2 have declined such recommendation by opining that anomaly in fixation of pay of the petitioner would be sent to the next Punjab Pay Commission for consideration.

4. Per contra, learned State counsel states that the Municipal Corporation has to adopt the said notification issued by the State Government and the same is not applicable unless the Corporation resolves to adopt the same.

5. Opposing the contention of learned State counsel, learned counsel appearing on behalf of the respondent-Corporation points out that the post of Legal Assistant as held by the petitioner, is a provincialized cadre post and the respondent-Corporation has nothing to do with the same. He further submits that all the service conditions and retiral benefits of the petitioner are governed by the Department of Local Bodies, Government of Punjab. Similar stand has been taken in the written statement by the respondent-Corporation.

6. That being the position, the arguments of the learned State counsel that the Corporation has to specifically resolve to adopt the notification dated 15.12.2011 with regard to revision of the pay scale notified by the Government of Punjab are misplaced. It is the conceded position that the petitioner is working as Legal Assistant, which is provincialized cadre post under the administrative control of the Department of Local Bodies.

7. I am also in agreement with the contention of learned counsel for the petitioner that respondent Nos.1 & 2 are adopting discriminatory attitude, inasmuch as having granted benefit of Grade Pay to similarly situated employee who is working as Legal Assistant in the Department of Animal Husbandry, Punjab, as is reflected from the order dated 02.12.2013 (Annexure P-6).

8. Learned State counsel submits that the benefit as per Annexure P-6 is given to the employee working in Animal Husbandry Department, which has its own set of rules of granting such benefit and such rules cannot be applied to an employee working in the Department of Local Bodies.

9. The said argument is also misplaced in view of the notification dated 15.12.2011 which is addressed to all Heads of the Departments of the Government of Punjab. Therefore, the said notification is applicable to all the departments of the Government of Punjab including the Department of Local Bodies.

10. In view of the discussion above and the reasons contained therein, the writ petition is allowed, orders dated 08.03.2016 and 17.06.2016 (Annexures P-8 & P-9 respectively) are set-aside and the respondents are directed to grant Grade Pay of ₹4800/- alongwith all the consequential benefits to the petitioner, as per the notification dated 15.12.2011.

March 29, 2019

mohinder

(ARUN MONGA)

JUDGE

Whether speaking/reasoned

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Yes/No

Whether Reportable

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Yes/No