

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.23106-2015 (O&M)

Date of decision: 29.03.2019

Union of India

.....Petitioner

versus

Prem Nath (since deceased) through LRs and another

.....Respondents

CORAM: Hon'ble Mr.Justice Rajiv Sharma
Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Puneet Jindal, Senior Advocate with
Mr.Amandeep Singh Meho, Advocate for the petitioner
Mr.P.S.Khanderia, Advocate for the respondents

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

Union of India has impugned the order dated 25.03.2015 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short, 'The Tribunal'), vide which, the present petitioner was directed to recompute the pension payable to the applicant and release the arrears due to him on this account. However, arrears are to be restricted to the period of three years preceding the date of filing of O.A. i.e. 24.11.2013.

The facts of the case are that the applicants-respondent Prem Nath was working as Mistry in the pay scale of Rs.1400-2300 and retired from the service on 01.07.1994 on attaining the age of superannuation. The pay scale of Mistry was later on revised at Rs.4500-7000 and subsequently

to Rs.5000-8000. In the Northern Railways, the post of Mistris were redesignated as Technical Supervisor and later on as Junior Engineer Grade-II. Applicant claimed that at the time of retirement, he was enjoying the same pay scale as given to his counterpart working as Chargeman and Artisan/Master Craftsman. The post of Chargeman was also redesignated as Technical Supervisor and later on Junior Engineer Grade-II. Therefore, he claimed that revised PPO be issued

The Tribunal vide the impugned order took the view that the matter has already been settled in the decision of Tilak Raj and others v. Union of India and others, O.A. No.1376/PB/2012 decided on 20.10.2013 by the Tribunal, which was upheld by the High Court in CWP No.2105 of 2014, vide judgment dated 29.1.2015. Therefore, impugned order was passed.

We have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the petitioner has argued that the judgment of Tilak Raj's case(supra) was based on the judgment of Agia Ram and others vs. Union of India and others, CWP 9581-2011, decided on 24.08.2011 by a Division Bench of this Court. Learned counsel for the petitioner contends that in the said case the applicants were Mistries, performing duty of supervisor having Rs.100 as Special Pay in addition to the pay scale. In the present case, applicant was working as Mistry. Therefore, his case is distinguishable. For this purpose, reliance has been placed on the Government of India, Ministry of Railways Circular RB No.177 of 2003 dated 9.10.2003. Learned counsel for the petitioner was specifically asked as to whether the posts of Mistries and Mistries having Special Allowance

of Rs.100/-, are two different cadre posts? He could not show any document. Relevant extract from said circular regarding upgradation of post of Supervisor (erstwhile Mistries), is reproduced as under:-

Upgradation of the posts of Supervisor (erstwhile Mistries)

13(a) Subject to provisions of Para-13.2 below, all the posts of Supervisors (erstwhile Mistries) in grade Rs.4500-7000 + Rs.100 Special Allowance (excluding Supervisors (P.Way) should enbloc be upgraded to the posts of Junior Engineer Gr.II in the pay scale of Rs.5000-8000 and merged with the respective cadre of Technical Supervisors with its spread effect in higher grades Rs.5500-9000, 6500-10500 & 7450-11500 as per the revised percentage distribution of posts prescribed for Technical Supervisors in these orders.

The said circular clearly shows that Supervisor have been mentioned as erstwhile Mistries. Learned counsel has laid emphasis on the pay scale wherein Rs.100/- Special Allowance is mentioned.

We are of the view that since post of Mistry is one, Special Allowance will become immaterial. The matter was specifically dealt in the case of Tilak Raj's case (*supra*). There also the applicants working as Mistries. The Union of India challenged the said order of the Tribunal dated 10.10.2013 before this Court by way of CWP No.2105 of 2014. The said order was upheld. The SLP against the said order has been dismissed on 05.01.2016 and the copy of the same has been placed on file. Therefore, it is clear that the post is of Mistry, which was later on designated as Supervisor, which was further upgraded to the post of Junior Engineer Grade-II in the pay scale of Rs.5000-8000. Admittedly, the applicant was working as Mistry. Therefore, his designation was the same as in the case of Tilak Raj's case (*supra*). Consequently, he was rightly granted the benefit of

Tilak Raj's case (*supra*) by the Tribunal. There is no illegality or infirmity in the impugned order.

Resultantly, the present petition stands dismissed.

(Rajiv Sharma)
Judge

(Kuldip Singh)
Judge

29.03.2019

gk

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes