

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

CWP-8726 of 2012

Date of decision: 16.10.2019

Ramesh Kumar

.... Petitioner

versus

Haryana Vidyut Prasaran Nigam Limited and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.K. Rohilla, Advocate
for the petitioner.

Mr. C.S. Bakhshi, Addl. A.G. Haryana.

HARSIMRAN SINGH SETHI, J.

The grievance which is being raised in the present writ petition is that the petitioner is entitled for step up of his pay equivalent to his junior i.e. respondent No.4 in the cadre of Senior Scale Stenographer, Personal Assistant, Private Secretary and Senior Private Secretary as the petitioner was senior to respondent No.4 and respondent No.4 was granted promotion in preference to him on the basis of reservation and after petitioner caught respondent No.4 in the promoted cadre, he regained his seniority over respondent No.4 and, hence, being senior to respondent No.4, petitioner is entitled for step up of his pay.

As per the averments made in the writ petition, the petitioner was appointed as Junior Scale Stenographer on 06.05.1971, whereas, respondent

No.4. was appointed as Junior Scale Stenographer on 19.07.1973. Petitioner belongs to the general category, whereas, respondent No.4 belongs to reserved category (scheduled caste). Respondent No.4, on the basis of reservation got promoted as Senior Scale Stenographer on 02.04.1975. Before the petitioner could catch the respondent No.4 in the said cadre, respondent No.4 got further promoted as Personal Assistant on 04.12.1979 whereas, petitioner was promoted as Senior Scale Stenographer on 23.10.1981. Respondent No.4 further was promoted as Private Secretary on 17.07.1987 and, thereafter, as Senior Private Secretary on 27.02.1991. In the year 1991, the petitioner was working as Senior Scale Stenographer, which is three posts below the post of Senior Private Secretary. Petitioner was promoted as Personal Assistant on 10.02.1999 and, thereafter, as Private Secretary on 10.09.2004 and further got promoted as Senior Private Secretary on 18.10.2006. Before the petitioner got promoted as Private Secretary on 10.09.2004, respondent No.4 sought voluntarily retirement and retired on 02.12.2003. Detailed chart showing dates of promotion of petitioner and respondent No.4 is as under:-

<i>Sr. No.</i>	<i>Particulars of service</i>	<i>Biodata of Ramesh Kumar (Senior)</i>	<i>Biodata of Bishan Lal Karga Respondent No.4.</i>
1	D.O.B.	17.04.1949	18.04.1949
2	Date of Joining service with capacity	06.05.1971 as Jr. Scale Stenographer	19.07.1973 as Jr. Scale Stenographer
3	Category	General	SC
4	Seniority List of Junior Scale Stenographer	88	113
5	Date of promotion as Senior Scale stenographer	23.10.1981	02/04/75
6	Date of promotion as Personal Assistant	10/02/99	15.06.1981 Deemed dated granted from 04.12.1979
7	Date of Promotion as Private Secretary	10/09/04	17.07.1987
8	Date of promotion as Senior Private Secretary	18.10.2006	27.02.1991

<i>Sr. No.</i>	<i>Particulars of service</i>	<i>Biodata of Ramesh Kumar (Senior)</i>	<i>Biodata of Bishan Lal Karga Respondent No.4.</i>
9	Date of retirement	30.04.2007	02.12.2003 voluntary retired
10	Post from which retired	Sr. Private Secretary	Sr. Private Secretary

A bare perusal of the same would show that petitioner was not able to catch respondent No.4 in any of the cadre, though, he was admittedly senior to respondent No.4. in the cadre of Junior Scale Stenographer.

Learned counsel for the petitioner argues that keeping in view the instructions issued by Government of Haryana on 27.11.2006 (Annexure P/1), an employee belonging to general category, who regained seniority over his junior reserved category employee is entitled for step up of his pay equivalent to the pay which the junior reserved category employee is getting and, therefore, the petitioner is entitled for step up of his pay as per instructions dated 27.11.2006. (Annexure P/1). Learned counsel for the petitioner further argues that thereafter, again, Government of Haryana issued instructions on the same issue on 05.03.2009 (Annexure P/2) granting the benefit of the stepping up of pay of the senior general category employee at par with employee of junior reserved category keeping in view the judgment of Hon'ble Supreme Court of India in **Ajit Singh Januja vs. State of Punjab (1996) 2 SCC 715.**

As the benefit of step up of pay equivalent to respondent No.4 was not being granted to the petitioner, he filed representations with the respondents. First representation of the petitioner was rejected by the respondents vide order dated 9.11.2011(Annexure P/5) stating therein that the petitioner was allocated to HVPNL after the bifurcation of the Haryana Electricity Board, whereas, respondent No.4 was allocated to DHBVNL and therefore, there is no *inter se* seniority between petitioner and respondent No.4

after the bifurcation of the Haryana Electricity Board. Petitioner again filed representation for reviewing the said order and even the said review was rejected by the respondents vide order dated 14.2.2012 (Annexure P/7). The challenge is to the orders dated 09.11.2011 (Annexure P/5) and 14.2.2012 (Annexure P/7), by which the claim of the petitioner for stepping up of his pay equivalent to his junior respondent No.4 has been declined.

Upon notice of motion, respondents have filed reply. In the reply, respondents have stated that the case of the petitioner is not covered under the Instructions dated 27.11.2006 (Annexure P/1) and 05.03.2009 (Annexure P2).

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question which arises for determination in the present writ petitioner is, as to whether the pay of the petitioner needs to be stepped up equivalent to that of respondent No.4 keeping in view the facts and circumstances of this case. Stepping up of pay of a senior employee equivalent to that of his junior is admissible under law. In the present case, the petitioner has not been able to prove that he regained seniority over and above respondent No.4 in any of the cadre after promotion. Petitioner never caught respondent No.4 in any of the promoted cadres, therefore, respondent No.4 remained senior to petitioner in all the cadres. Once the petitioner could not regain the seniority over respondent No.4, the claim of the petitioner for step up of his pay cannot be allowed. Moreover, the petitioner has not been able to prove that he remained senior to respondent No.4 at any given point of time before respondent No.4 retired from service.

Under these circumstances, claim of the petitioner for stepping up of his pay on the basis of Annexures P/1 and P/2 cannot be allowed.

No interference is called for. Accordingly, the present writ petition stands dismissed.

16.10.2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |