

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5330-1999 (O&M)
Reserved on: 14.11.2019
Date of decision: 20.03.2020

Som Dutt

....Petitioner

versus

State of Punjab and another

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

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

Mr. Pankaj Gupta, Addl. A.G., Punjab.

GIRISH AGNIHOTRI, J. (Oral)

1. Petitioner-Som Dutt has filed the present writ petition *inter alia* with a prayer to direct the respondents to grant pay scale of Rs.1200-2100 to the petitioner w.e.f. 24.10.1986 the date when he joined as Liquid Nitrogen Plant Operator in the Department of Animal Husbandry, Punjab) with all consequential benefits along with interest.
2. The brief facts of the case are that the petitioner was appointed as Liquid Nitrogen Plant Operator (hereinafter referred to as LNPO) on 26.09.1986 in the pay scale of Rs.400-660. In the year 1988, w.e.f. 01.01.1986, the pay scale of LNPO was revised to Rs.1200-2100, whereas, the petitioner was only granted pay scale of Rs.950-1800.
3. The pleaded case of the petitioner is that vide letter dated

17.05.1990, The Director, Animal Husbandry, Punjab had written to Deputy Director, Animal Husbandry, Bathinda that Plant Operators who were in the scale of Rs.450-800, have been given revised pay scale of Rs.1200-2100 as per recommendations of Third Pay Commission. The petitioner then submitted a representation to the respondents with a request to grant him the pay scale of Rs.1200-2100 w.e.f. 24.10.1986. This recommendation was forwarded to The Director, Animal Husbandry, Punjab by The Deputy Director, Animal Husbandry, Faridkot, seeking necessary clarification. In the year 1997, in a judgment dated 14.03.1997 in CWP-12120-1994, this Court had allowed the writ petition and directed the respondents to give to the petitioner (petitioner therein) higher grade pay scale of Rs.1200-2100 w.e.f. the date when it was given to his immediate junior. Thereafter, when inspite the said judgment, the said scale was not granted to the petitioner, the petitioner filed the present writ petition in the year 1999. It is further stated by learned counsel for the petitioner that during pendency of the writ petition, on 31.10.2002, the petitioner has retired from the services.

4. Notice of motion in this case was issued on 23.04.1999.
5. Written statement on behalf of respondents No.1 & 2 was filed by Dr. Bhupinder Singh Gill, Joint Director, Animal Husbandry, Punjab, on 22.09.1999. Additional affidavit on behalf of respondents No.1 & 2 has also been filed on 14.08.2001 by Dr. G.S. Chahal, Director, Animal Husbandry, Punjab.
6. The present writ petition was admitted on 14.03.2003.
7. I have heard learned counsel for the parties.

8. Learned counsel for the petitioner has placed reliance on the judgment dated 14.03.1997 in CWP-12120-1994 (copy of which is attached as Annexure P-1). He submits that the petitioner therein was also appointed as Electrician in the Government Poultry Farm at Jalandhar, in the pay scale of Rs.400-660. This scale of Rs.400-600 was revised to Rs.950-1800 w.e.f. 01.01.1986. This Court vide judgment dated 14.03.1997 has observed as under:-

“I have heard counsel for the parties and, in my opinion, the writ petition deserves to succeed. Admittedly, Bhag Singh who is junior to the petitioner as an electrician is drawing pay in the higher scale of Rs.1200-2100 whereas the petitioner is drawing pay in the scale of Rs.950-1800 and this is ex-facie arbitrary and violative of Articles 14 and 16 of the Constitution and, in my view, the petitioner is justified in claiming the higher pay scale of Rs.1200-2100. Their Lordships of the Supreme Court in State of Andhra Pradesh and others Vs. G. Sreenivasa Rao and others 1989 (1) R.S.J. 519 have observed that “ordinarily grant of higher pay to a junior would ex-facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. “ In other words, a senior may in some eventualities get lower pay than the juniors provided the differential is based on intelligible criteria and has a rational nexus with the object sought to be achieved which is missing in the present case. Why the petitioner was initially appointed in the lower scale of Rs.400-600 and why bhag Singh was given higher grade of Rs.450-800 has not been spelt out in the written statement. It is not the case of respondents that there were two grades of electricians based on some retinal criteria and that the petitioner was appointed in the lower grade higher grade. Had this been so, the position would have been different.”

9. Learned counsel for the petitioner has relied on extract of Punjab Government Notification, which is reproduced in Para-4 of the writ petition, and also extracted hereinunder:-

“4. That in the year 1988, the State Government revised the pay scale of its employees on the

recommendation of the 3rd Pay Commission and the LNPOs were granted the pay scale of Rs.1200-2100. The relevant extract showing the revised pay scales is reproduced hereunder for the kind perusal of this Hon'ble Court:-

Extract from Pb. Govt. notification, page 142

1	2	3	4	5	6

1-6	xx		xx		xx
7. Electrician\		5	13	18	1200-30- 1560-40- 200-50- 2100.

ELECTRICIAN-CUM-
Liquid Nitrogen
Plant Operator/
Air Oven Operators

But however, the petitioner was granted the pay scale of Rs.950-1800 inspite of the fact that the other LNPOs were granted the pay scale of Rs.1200-2100. The petitioner has learnt that he was not granted the pay scale of Rs.1200-2100 due to the mistake committed by the department in appointing the petitioner in the pay scale of Rs.400-660 instead of Rs.450-800 as the pay scale of the post of LNPO was Rs.450-800. This fact is clear from a bare perusal of letter dated 17.5.90 written by respondent No.2 to the Deputy Director, Animal Husbandry, Bathinda. Translated copy of the letter dated 17.5.90 is attached as Annexure P/4 with this writ petition.

10. Therefore, it is evident from above that both the posts namely Electrician/Electrician-cum-LNPO/Air Oven Operator are under the same head and are bracketed and all the three categories of posts have been given common pay scale of Rs.1200-2100. Otherwise also, once there is no dispute that both the categories of employees namely, the petitioner allegedly appointed in the scale of Rs.400-600 (revised to Rs.950-1800) and also those who were appointed in the scale of Rs.450-800 (revised to Rs.1200-2100), have been discharging the same duties, there is no ground to discriminate in the grant of pay scales.

11. Learned counsel for the respondent has not disputed the fact that

the claim in the present writ petition is covered on merit by the judgment dated 14.03.1997.

12. Therefore, this writ petition is **allowed**. The petitioner would be entitled to pay fixation in the pay scale of Rs.1200-2100 w.e.f. 24.10.1986. However, the arrears will be restricted to 38 months prior to the date of filing of the present writ petition (which is stated to be 21.04.1999).

(GIRISH AGNIHOTRI)
JUDGE

Date:20.03.2020

anju rani

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No