

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

113

**CWP-18983-2020(O&M)
Date of Order:10.11.2020**

SANJAY KUMAR

..Petitioner

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Samarth Sagar, Addl. A.G.,Haryana

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conference on account of restricted functioning of the Courts.

Through this petition, filed under Article 226 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari, quashing the order dated 30.10.1997.

The petitioner was appointed as Lower Division Clerk on compassionate basis on 16.02.1999. His father, who was in the service of the State Government, had died while in the service. The petitioner was appointed on compassionate basis, as per the policy in vogue. Subsequently, on a writ petition filed by his mother after his father's death, he was held entitled to a higher pay scale. The petitioner claims that as per the policy-instructions applicable at the relevant time, the petitioner is entitled to a pay scale one step lower than the pay scale payable to his deceased father.

Dakshin Haryana Bijli Vitran Nigam has passed a detailed order on 30.10.2017 pursuant to the directions issued in Civil Writ Petition No.15400 of 2017 (Sanjay Kumar vs. State of Haryana and others) previously filed by the petitioner. It has been held as under:-

“That the petitioner represented for grant of scale of Rs.4625-7250/- on the basis of (policy instructions dated 31.08.1995). However, the aforesaid policy was clarified vide instruction dated 08.06.1999 to the effect that 'One step Below' means that the offer of appointment to the deceased employee's dependent is not to be on a post equivalent to the one which was held by the deceased employee but should be on a lower post by at least one post”. There position as it stands today is that one step below means at least one post lower. Grant of 2nd ACP scale to late Sh. Chaman Lal does not change of status of petitioner's father as he would remain as UDC at the time of demise.”

This court has heard learned counsel for the petitioner at length and with his able assistance perused the paper book.

Learned counsel for the petitioner contends that on the day when the petitioner was appointed in service, the policy-instructions dated 31.08.1995, were applicable and the clarification issued vide instructions dated 08.06.1999, would not be applicable. He hence, submits that the petitioner has been wrongly denied the relief as prayed for.

This court has considered the submissions.

It is not disputed that the petitioner was appointed on the post of Lower Divisional Clerk on 16.02.1999. He is being paid the same pay scale as is being paid to his other colleagues. The petitioner entered in service on 16.02.1999. Thus, the petitioner cannot claim higher pay scale.

The petitioner has been appointed as per the policy-instructions dated 31.08.1995. The policy-instructions remained the same. However, they were clarified vide letter dated 08.06.1999. Thus, the clarification

issued by the Government cannot be treated as a new policy-instructions.

Still further, the petitioner through the present writ petition challenges the order dated 30.10.2017. It is already more than 3 years. Even the limitation for filing a civil suit has elapsed.

Learned counsel for the petitioner relies upon the judgment dated 10.01.2012 passed in Civil Revision No.3006 of 2010 (Sushma Devi vs. Dakshin Haryana Bijli Nigam Ltd. and others), Annexure P-11.

This court has carefully read the aforesaid judgment.

In the aforesaid judgment, direction was issued to appoint in scale one step below the scale held by the deceased employee. The aspects highlighted by this court were neither raised nor dealt with in the aforesaid judgment. Hence, with greatest respect, the aforesaid judgment is not applicable to the facts of the present case.

Hence, this court does not find any ground to interfere.

Dismissed.

November 10, 2020
nt

(ANIL KSHETARPAL)
JUDGE

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