

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(239)

CWP No.1674 of 2020

Date of Decision : 14.10.2022

Prabhu Dayal

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vansh Malhotra, Advocate for the petitioner.

Mr. Sandeep Singh Mann, Additional Advocate General,
Haryana.

Ms. Swati Dalayan, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J.

In the present petition, the grievance of the petitioner is that he was not given increment while effecting promotion from the post of Tehsil Revenue Accountant to that of District Revenue accountant, which promotion was given to the petitioner on 12.01.2015 and the claim of the petitioner to the said fact has been rejected by the respondents vide impugned order Annexure P-9.

The facts leading to the present petition are that the petitioner joined the department of Revenue as a Peon on 08.03.1978, thereafter, he was promoted as a Clerk on 17.08.1983 and was further promoted as Assistant Wasal Baki Navis. On 11.10.2010, the petitioner was further promoted as Tehsil Revenue Accountant on which post the petitioner worked upto

on the said post, the petitioner attained the age of superannuation and retired on 30.06.2016. The grievance of the petitioner is that the pay scale of the post of Tehsil Revenue Accountant as well as District Revenue Accountant is identical and, therefore, keeping in view the instructions issued by the Government of Haryana dated 11.10.2010, the petitioner is entitled for the increment equal to 3% of the pay, which benefit has not been extended to the petitioner by the respondents.

Learned counsel for the petitioner supports the said argument by placing reliance upon the fixation of the pay as done by the respondents, a copy of which has been appended as Annexure P-6, according to which, upon promotion of the petitioner to the post of District Revenue Accountant, his pay remained the same including the basic pay as well as grade pay.

After notice of motion, the respondents have filed reply. In the reply, the respondents have not touched the actual grievance of the petitioner but have only submitted that while the petitioner was given the promotion as TRA he was inadvertently given two increments instead of one, which was withdrawn by the department. Nothing has been mentioned as to why upon promotion to the post of District Revenue Accountant, the petitioner was not extended the increment, which he was entitled for under the instructions.

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

The only question which arise for consideration before this Court is whether the petitioner should have been extended the increment upon his promotion to the post of District Revenue Accountant as effected on 14.01.2015. It is a conceded position that pay scale as well as grade pay of the post of Tehsil Revenue Accountant and District Revenue Accountant is identical. That being so, the petitioner was entitled for the grant of one

instructions issued by the Financial Commissioner dated 11.10.2010.

Furthermore, the similar question also came up for consideration before this Court by CWP No.11128 of 2016 decided on 11.09.2018 titled as **Sukhbir Singh Vs. State of Haryana and others**, wherein this Court issued direction that while effecting the promotion to the post of DRA one increment is to be extended. The relevant para of the judgment is as under:

“The petitioner initially was appointed as Clerk on 25.01.1990 and he was promoted as Assistant Wasal Baki Navis (AWBN). Thereafter petitioner was further promoted as WBN (Wasal Baki Navis) on 01.11.1997 and after promotion his pay scale was determined as 5000+80 + special Pay. Petitioner has referred to the instruction issued by the Financial Commissioner dated 11.10.2010(Annexure P-2) whereby refixation of pay has to be made on his promotion where the functional pay scale of the feeder post and functional scale of the promotion post are identical. In the case of the petitioner, at the time of promotion of DRA no benefit of increment was given by the department to the petitioner whereas as per instructions (Annexure P-2) he was entitled to one increment equal to 3% of the pay in the pay band plus the existing grade pay to be rounded off to the next multiple of 10. The benefit of these instructions has not been granted to the petitioner while he was promoted as DRA(District Revenue Accountant) on 24.09.2014. This factual position is not being denied by the respondents in their reply filed on behalf of respondents No.1 to 3. The only ground taken is that petitioner has already getting the pay scale (because of ACP etc.) higher to that which he would get after promotion under Sub Rule (2) of Rule 15 of the ACP Rules, 1998 which is stated that first and second ACP scale as a personal measures and then get promoted and the functional pay scale of the promotion post is equal to or lower then the scale in which he is already drawing his pay as a measure personal to him, his pay will not be refixed. They have referred to the instructions dated 09.04.2010 of the Haryana Government

where it has been stated that he was first in receipts of ACP scale and then got promoted to the post of DRA as such is not entitled for the benefit of increments on promotion. However, the instructions dated 11.10.2010 (Annexure P-2) has further clarified that if the feeder and promotional posts are identically placed in the same grade pay, on promotion the incumbent employee shall be entitled to one increment equal to 3% of the pay in the pay band plus the existing grade pay to be rounded off the next multiple of 10.”

Learned counsel for the respondents has not been able to rebut the said assertion that one increment on promotion to the post of DRA has been ordered to be given by this Court, which increment has not been extended to the petitioner when he was granted the said promotion on 14.01.2015.

Learned counsel for the respondents argues that in the absence of any certificate by the Administrative Department that the post of DRA envisages higher responsibility than that of the post of TRA, no benefit of increment can be granted. The said argument of the learned State counsel cannot be accepted for two reasons. One, it is a conceded position that under the Rules governing the service, the post of DRA is promotional post and TRA is the Feeder Cadre. Once, DRA is a promotional post from that of TRA, it cannot be said that the said post does not envisage higher responsibility.

Further, as per the instructions dated 11.10.2010, for promotion to the post of DRA one increment is to be granted once the instructions envisage increment, it has to be considered that the post of DRA is of a higher responsibility than that of TRA and benefit needs to be extended to the petitioner especially when a similarly situated employee has already been extended the same by the Coordinate Bench of this Court.

Keeping in view the above, the prayer of the petitioner is allowed.

The petitioner is held entitled for one increment keeping in view the

instructions dated 11.10.2010 upon promotion as DRA. Let the respondents grant the petitioner the consequential benefits also to the petitioner in respect of pay as well as the pensionary benefits and the order be complied within a period of two months.

October 14, 2022
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No