

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

CWP NO. 11032 OF 2015

DATE OF DECISION: 14.07.2022

Harish Kumar Gupta

...Petitioner

Versus

The State of Haryana and another

...Respondents

CORAM : HON'BLE MR.JUSTICE ARUN MONGA

Present : Mr. J. S. Maanipur, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of certiorari for quashing of order dated 05.08.2013 (Annexure P-4) passed by respondent No.2, whereby his pay has been fixed lesser than his junior, namely, K.C.Mittal which is contrary to order passed by this Court in CWP No. 21107 of 2012 decided on 18.10.2012 vide Annexure P-2 and order passed by respondent No.1 dated 12.07.2013 (Annexure P-3) vide which he was granted promotion w.e.f. 31.12.2003 when his junior was promoted as Sub Divisional Engineer (Panchayati Raj) as K.C. Mittal was getting salary of Rs.25,880/- in July, 2013 whereas the petitioner was getting salary of Rs.22,080/-, as per his salary statement for the year 2012-13 and 2013-14, which is contrary to law laid down by this Court in case “**Chanan Singh v. Punjab State Electricity Board, Patiala**” reported in 1992 (2) RSJ 451 and “**Er. G.S. Grewal and another v. Punjab State Electricity Board and others**” reported in 2009 (1) SCT 623.

2. Controversy involved herein is summed up in an order dated 04.03.2020 passed by my learned sister Ritu Bahri, J., which reads as under:

“ Vide order dated 29.05.2012 (Annexure P-1), petitioner was promoted from the post of Junior Engineer to the post of Sub Divisional Engineer (PR) on ad hoc basis, w.e.f. 31.12.2003 i.e. the date from which, his junior namely Sh. K.C. Mittal was promoted, in the scale of Rs.8000-13500 plus usual allowances. Thereafter, vide order dated 05.08.2013 (Annexure P-4), his pay was re-fixed.

Grievance of the petitioner is that his pay has been rightly re-fixed, however, in the year 2013, he was entitled to the benefit of first ACP, which has not been granted and his pay should be re-fixed after given the benefit of first ACP.

Respondents in their reply, have taken a stand that Sh.K.C.Mittal had been, inadvertently, given first ACP and the department is considering to withdraw the said benefit. It has been further stated that as per Haryana Civil Services (Assured Career Progression) Rules, 2008, benefit of first ACP can be granted only to the eligible Sub Divisional Officer (Panchayati Raj), who is fit for promotion to the next higher post in the functional hierarchy in his cadre i.e. the post of Executive Engineer. As per Departmental Service Rules of Group ‘A’, Diploma Holder SDO (PR) cannot be considered for promotion to the post of Executive Engineer as the essential qualification is a degree from recognized University with 08 years of experience as Sub Divisional Officer/Sub Divisional Engineer. The department is in the process of examining withdrawal of first ACP granted to Sh.K.C.Mittal.

Learned State counsel seeks time to find out, whether the benefit granted to Mr.K.C.Mittal, had been withdrawn or not.

Adjourned to 05.03.2020.”

3. *Apropos* above, on a Court query as to whether the benefit given to K.C. Mittal with whom the petitioner seeks parity has been withdrawn, learned State counsel submits that though the stand taken in the written statement is otherwise but factually it transpires that benefit has not been withdrawn.

4. Being so, I see no reason as to why the petitioner be not given the benefit on the sole ground of parity. It is settled position that in

the matters of pay fixation there cannot be any discrimination and principle of equal pay equal work is to be applied. Accordingly, the respondents are directed to re-fix the pay of the petitioner on parity with K.C.Mittal and accord him the benefit including arrears with effect from the date he is entitled to same till actual payment thereof.

5. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

6. Disposed of.

JULY 14, 2022
Shalini

(ARUN MONGA)
JUDGE

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