

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

**CWP-13747-2016
Date of Decision: July 21, 2022**

Dilbag Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Goyat, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

The present petition has been filed with a prayer that the pension admissible to the petitioner be re-fixed by taking the Grade Pay of Rs.4,000/- instead of Rs.3,600/-, which has been taken into account while computing the pensionary benefits admissible to the petitioner.

Learned counsel for the petitioner argues that it is undisputed fact that at the time when the petitioner attained the age of superannuation, he was drawing the pay in the pay scale of Rs.5,200 – 20200 + Grade Pay of Rs. 4,000. Learned counsel submits that once the last drawn pay of the petitioner was in the said pay scale, the same has to be taken into account for computing the pensionary benefits of the petitioner.

After notice of motion, the respondents have filed the written statement stating that the petitioner was getting the said pay scale as a measure personal to him, keeping in view the instructions issued by the Finance Department, Haryana, vide letter dated 27.08.2014. Hence, while

fixing the pension, the actual Grade Pay admissible to the said pay scale, which is admissible to the post on which the petitioner was discharging duties at the time of his retirement, is to be taken into account, according to which, the Grade Pay attached to the post was Rs.3,600/-. Learned State counsel submits that any pay which the petitioner was drawing personal to him, cannot be made part for computing the pensionary benefits.

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

Once it is a conceded position that at the time when the petitioner retired from service, i.e. from the post of Mechanic, he was drawing his pay in the pay scale of Rs.5,200 – 20200 + Grade Pay of Rs. 4,000, the same has to be taken into account for computing the pensionary benefits of the petitioner.

As far as the argument of learned State counsel that the technical pay scale admissible to the post on the petitioner was working, was only having Grade Pay of Rs. 3,600/-, which can only be taken into account for computing the pensionary benefits, it is held that once the respondents themselves while issuing instructions/letter dated 27.08.2014 held that the employees who were already getting upgraded pre-revised pay scale, shall be allowed to continue to draw those pay scales as a measure personal to them, hence the said pay scale which was actually being drawn by an employee at the time of retirement has to be taken into account for computing the pensionary benefits. Even if a pay scale is allowed to an employee as a personal measure, it is not that the same will only be

applicable till the employee remain in service. Benefit of the said pay scale which has been extended by the respondents themselves while the petitioner was in service and the petitioner continue to draw his salary in the Grade Pay of Rs. 4,000/- upto the date of retirement, same has to be taken into account even for computing the pensionary benefits.

Learned State counsel has conceded the fact that the Grade Pay of Rs.4,000/- was being drawn by the petitioner while he was in service, at the time of retirement. That being so, even if the said Grade Pay was being drawn by the petitioner as a measure personal to him, the same has to be made applicable even for computing the pensionary benefits.

In view of above, the claim of the petitioner as raised in the present petition is allowed. The respondents are directed to re-compute the pensionary benefits of the petitioner by taking into account the Grade Pay of Rs.4,000/-, which the petitioner was drawing at the time of retirement in the pay scale of Rs.5,200 – 20200, as a measure personal to him. Let the re-computation of the pension of the petitioner take place within a period of two months from receipt of a copy of this order and the difference of amount for which the petitioner is found entitled for, be released to him within a period of next four weeks.

No further argument was raised by learned counsel for the petitioner.

(HARSIMRAN SINGH SETHI)
JUDGE

July 21, 2022

Pk Kapoor

Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**