

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

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CWP No.17179 of 2022

Date of decision : 20.09.2022

Beant Singh

....Petitioner

V/s

Punjab Engineering College and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Uttam Singla, Advocate for the petitioner.

Mr. Sehaj Mahajan, Advocate for respondent No.1.

Mr. Deepak Malhotra, Advocate for respondent No.2.

VIKAS SURI, J. (Oral)

The instant petition under Article 226/227 of the Constitution of India has been filed with the following substantive prayer:

“(i) Order dated 26.04.2022 (Annexure P-12) whereby claim of the petitioner has been rejected may be quashed and the respondent institute may be directed to step up pay of the petitioner as has been done in case of identical situated employee Ramesh Chand (Annexure P-8). In the alternative order of step up of pay of respondent No.3 (annexure P-8) may be quashed so the there is no discrimination between identically situated employees.”

The facts of the case in brief are that the petitioner retired from the post of Workshop Instructor in the Punjab Engineering College (deemed to be University) and seeks step up of his pay from the date his juniors were drawing more pay than him. In that regard, petitioner had made a representation dated 05.09.2019 (Annexure P-9) to the first respondent. He had earlier approached this Court by way of CWP-18978-2021, which was

disposed of vide order dated 18.02.2022 (Annexure P-10) directing the College to take a conscious decision upon the said representation within a period of three months; and in case the petitioner was found entitled to the financial benefits on account of such decision to be taken, the same were to be released to him within a further period of three months from the date of such decision.

In compliance to the aforesaid direction passed by this Court, the first respondent considered the matter and passed the speaking order dated 26.04.2022 (Annexure P-12), which has been impugned in the present petition. It has been noticed in the speaking order that in the representation, parity for step up was drawn with one Sh. Daulat Ram Sharma, whereas in the said writ petition reference was also made to one Sh. Hardev Singh. Thus, in the speaking order the case of the petitioner has been considered vis-a-vis both the aforesaid persons i.e. Sh. Hardev Singh and Sh. Daulat Ram Sharma.

It is not in dispute that the petitioner joined the services of the College as an Electrician on 15.05.1987 with basic pay of ₹1000/-. He was appointed as a Mechanic Electrician in the pay scale of ₹1350-2400 with basic pay of ₹1410/- on 06.02.1990. He was promoted as a Radio Mechanic with a pay scale of ₹5800-9200/- on 29.04.1999 and his basic pay was fixed as ₹6200/-. The said official was promoted as Workshop Instructor on 28.11.2002 and his pay was fixed under Rule 8(b) as per option dated 28.11.2002 as ₹7000/-. He was granted first ACP on completion of 4 years and the basic pay was fixed as ₹20,220/- with effect from 29.11.2006. His pay was stepped up at par with his junior Sh. Dharam Pal, Sr. Lab Technician on 01.01.2010 and his pay was fixed as ₹18,680+GP 4400/-

Total ₹23,080/-. He was granted second ACP on completion of 9 years and the basic pay was fixed as ₹24,700/- with effect from 29.11.2011. He was granted the revised pay scale of ₹10,300-34,800+GP 4800/- and fixed at ₹24,900/-. On 23.10.2013, his pay was again stepped up at par with Sh. Dharam Pal and was fixed at ₹26,430/-. He was granted third ACP scales upon completion of 14 years of service on 29.11.2016 and was fixed at ₹24,970+GP 4800/- Total ₹29,770/- He retired on 30.04.2021 and his last pay was ₹29,470+GP 4800/- Total ₹34,540/-.

Learned counsel for the petitioner at the outset submits that the impugned order dated 26.04.2022 (Annexure P-12) is correct inasmuch as it relates to the petitioner Beant Singh. The comparative table depicted therein is also not being assailed. The competent authority while referring to the aforesaid comparative chart between the petitioner, Hardev Singh and Dault Ram Sharma (since their respective employment with the College), returned a specific finding that the said persons were drawing more pay than the petitioner not on account of any anomaly but for the fact that they had been in employment prior to the petitioner and as per the provisions of Rule 8(b) of the Punjab CSR, their pay in the lower posts was protected. As such, the following finding came to be recorded:

“From the above table, it is evident that on 02.06.1993, whereas Sh. Beant Singh was getting the pay of Rs.1500+15 Total 1515/-, Sh. Hardev Singh, his junior, was getting Rs.1550+15 Total 1565/-. This is not an anomaly but Sh. Hardev Singh was getting more pay as he had joined the services prior to Sh. Beant Singh and his pay in the lower posts was protected.

Similarly, in as far as Sh. Daulat Ram Sharma is concerned he was appointed as Lab Attendant with effect from 17.07.1980 and was re-designated as Jr. Lecturer Assistant in the

pay scale of Rs.1350-2400 with basic pay of Rs.1350/- on 01.01.1987. On 27.07.1993 he was appointed as Engine Driver in the pay scale of Rs.1410-2480 and his pay was fixed for Rs.1650/- which is more than that of Sh. Beant Singh getting less pay although being senior to Sh. Daulat Ram Sharma is not on account of any pay anomaly but is because of the fact that Sh. Daulat Ram Sharma is appointed much prior to Sh. Beant Singh and upon his appointment as Engine Driver on 02.06.1993, his previous pay in the lower category was protected.

In view of the above, it is clear that Sh. Beant Singh is not entitled for any re-fixation of pay or any stepping up to make his pay at par with those of Sh. Daulat Ram Sharma and Sh. Hardev Singh.”

Thus, in view of the same, it was held that the petitioner was not entitled to any re-fixation of the pay or stepping up to make his pay at par with that of Daulat Ram Sharma and Hardev Singh. Accordingly, the request made by the petitioner was declined. Learned counsel for the petitioner in the present petition also cites the example of step up of pay in the case of Ramesh Chand with that of Jagdish Lal Pathania, in respect of whom order dated 25.10.2019 (Annexure P-8) was passed by the College. Learned counsel for the petitioner is at pains to substantiate the alleged different yardstick averred to have been adopted in that case and no rule or material in that regard has been brought to the notice of this Court.

As noticed above, the claim raised by the petitioner in the representation dated 05.09.2019 (Annexure P-9) read with the averments made in CWP-18978-2021, was considered and disposed of vide order dated 26.04.2022 (Annexure P-12). The factual matrix recorded therein has been admitted at the Bar to be correctly given and being as per record.

In view of the above noticed conceded factual position, no case is made out for seeking stepping up of pay and the impugned order dated 26.04.2022 (Annexure P-12) having been accepted to be correct vis-à-vis the petitioner, Daulat Ram Sharma and Hardev Singh, no interference by this Court is called for on that count.

No argument with regard to the prayer in alternate has been advanced. As such, the same is taken to be not pressed.

Learned counsel who appears for respondent No.1, however, clarifies that Sh. Ramesh Chand and Jagdish Lal Pathania, referred to in the aforesaid order, were occupying the same cadre and post. The pay of Jagdish Lal Pathania was fixed at Rs.6800/- per month on account the said official being re-designated as Jr. Assistant w.e.f. 01.01.2003 and not due to lower posts pay protection, whereas it is not so in the present case. As such, the consideration reflected in the office order dated 25.10.2019 (Annexure P-8) is not applicable in the case of the petitioner.

As a result of the cumulative discussion above, the present petition deserves to be rejected.

Dismissed.

(VIKAS SURI)
JUDGE

September 20, 2022

Kapil

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No