

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 (3 cases)

CWP-26161-2018
DATE OF DECISION: 01.08.2022

RAVINDER NATH AND OTHERS **Petitioners**
V/S
STATE OF HARYANA AND OTHERS **Respondents**

CWP-27634-2018

BALKARAN SINGH AND OTHERS **Petitioners**
V/S
STATE OF HARYANA AND OTHERS **Respondents**

CWP-28183-2018

SUSHIL KUMAR & ORS **Petitioners**
V/S
STATE OF HARYANA & ORS **Respondents**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Vivek Sharma, Advocate and Mr. M.M. Pandey, Advocate
for the petitioner(s).

Mr. Sharad Aggarwal, AAG, Haryana.

Mr. Lokesh Sinhal, Advocate in CWP-28183-2018
for respondents No.2 to 4.

Mr. Vivek Chauhan, Advocate in CWP-26161-2018
for respondents No.2 to 4.

Mr. Gaurav Jindal, Advocate
for respondents No.2 to 4 in CWP-27634-2018.

ANUPINDER SINGH GREWAL, J. (ORAL)

These petitions involve similar questions of fact and law and
therefore are being heard and decided together.

Learned counsel for the petitioners submits that the petitioners,
who are working as Class 3 employees as Shift Attendants and Assistant
Lineman, are entitled to the minimum of the pay scale as has been granted to
other similarly situated employees. He also submits that the respondents are

effecting recovery from the petitioners without any notice or opportunity of hearing. There was no misrepresentation on the part of the petitioners when the payment had been made to them and even otherwise the petitioners were entitled to that pay scale. He has cited the judgment of the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih** reported as **2015 (2) SCC (Civil) 608** in support of his submission that recovery from Class 3 employee for an amount which has been paid to them without any misrepresentation for several years could not be effected. He also submits that the petitioners would be filing a detailed representation with regard to their entitlement to the pay scale and the respondents may be directed to consider and decide the same.

Learned counsel for the respondents while referring to the reply filed by the respondents submits that the benefit of higher pay scale had been extended to the petitioners erroneously while relying upon the judgment of the coordinate Bench of this Court in the case of **Mahavir Singh and others Vs. State of Haryana and others** passed in **CWP No.25997 of 2016**, although the judgment was applicable to the petitioners therein who were getting lesser pay than the minimum of the pay scale. The petitioners herein were already drawing minimum of the pay scale. He also contends that the recovery is being effected from the petitioners in easy instalments and they would not to be put to any undue hardship.

Heard.

The petitioners are stated to be working as Assistant Lineman and Shift Attendant which are Class 3 posts. They are stated to have been

CWP-26161-2018
CWP-27634-2018
CWP-28183-2018

3

erroneously placed at a higher pay scale. The petitioners had not submitted any representation or sought the higher pay scale at any stage. The recovery could not have been effected from the petitioners without issuance of notice and affording them an opportunity of hearing. The coordinate Bench of this Court had already stayed the recovery from the petitioners. It has been held by the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih** (supra) that the recovery from Class 3 employees for an amount which has been paid to them without any misrepresentation on their part would be unjust. I am of the view that in the afore-noted facts and circumstances the recovery being effected from the petitioners, who are Class 3 employees, without any notice or opportunity of hearing is against principles of natural justice and would put them in financial difficulty.

Consequently, the petition is allowed and the impugned order dated 27.06.2018 (Annexure P-6) is set aside. The petitioners would be at liberty to file representation to the respondents with regard to their entitlement to the pay scale and in the event of the petitioners preferring a representation to the respondents, respondent No.2 is directed to consider and decide the same within a period of four months from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

01.08.2022
SwarnjitS

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