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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4222-2017(O&M)
Date of Decision: 18.08.2022

Joginder Parsad

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing order dated 22.06.2016 (Annexure P-6) whereby technical scale i.e. Rs.1200-2040, granted to the petitioner has been withdrawn, due to which the petitioner would get lesser salary than his juniors.

2. Learned counsel for the petitioner relies upon a common judgment/order of this Court passed in CWP No.27127 of 2016 titled as Vijay Kumar vs. State of Haryana and others wherein it has been held as follows:-

“xxxxxxxxxxxxxxxx

11. Be that as it may, that part of controversy need not to be gone into as what has already been expressed by my learned Brother Augustine George Masih, J. who speaking for this Court in another similar case CWP-2023-2011 decided on 25.04.2012 where petitioners were similarly situated held as below:-

“The fact that petitioners were working on the post of Trade-man Mate prior to 01.05.1990 is not a dispute. Prior to the said date, there was no qualification, as

such, prescribed for appointment to the said post. Petitioners being non-metric without ITI diplomas were, therefore, eligible and appointed on the said posts. Therefore, vide instructions dated 02.07.1991, pay scales were revised and modified T-Mates were denied this benefit. Similarly placed T-mates claimed the pay scale of Rs.1200-2010 w.e.f. 01.05.1990. The aspect with regard to the grant of technical grade to the employees who were working as T-mates was considered by a Division Bench of this Court in *raj Karan Vs. State of Haryana and others*, 2003 (1) RSJ 119 against which an SLP preferred by the State was dismissed vide order dated 31.07.2007 and this Court relying on the judgment of this Court in *Raj Karan's case (supra)* and the judgment of the Supreme Court in the case of *B.N. Saxena vs. New Delhi Municipal Committee and others* (1990) 4 SCC 205 proceeded to hold in *VedParkash case (supra)* (Annexure P-2) that employees appointed to the post prior to amendment prescription of a qualification as per the rules, if any, cannot be denied the benefit of pay fixation and pay revised of the said post on the basis of such amendment of the rules or prescription of rules after their appointment to the said post. The claim of the petitioners is covered by the ratio in *VedParkash's case (supra)* and thus, the petitioners are entitled to the technical pay scale.

The judgments which have been relied upon the counsel for the respondents do not pertain to the same issue. The claim of the petitioners being covered by the ratio of the judgment of this Court in *Ved Parkash's case (supra)* against which the SLP preferred by the State

has been dismissed as also by the Division Bench of this Court in Raj Karan's case (supra), which dealt with T-mates, the petitioners are entitled to the same benefit as has been granted in the said case.

Resultantly, these writ petitions are allowed in the same terms. Petitioners shall be entitled to the grant of technical pay scale w.e.f. 01.05.1990. Their pay be fixed accordingly. However, payment of arrears are restricted to 38 months prior to date of filing of the writ petition. Consequential benefits accruing be released to the petitioners within a period of one month from the date of receipt of certified copy of this order."

12. It is not disputed that the facts in the present case are also similar to the ones observed in the aforesaid round of litigation by my learned brother. I see no difference as to why I should not allow the writ petitions accordingly, on parity with the petitioners in CWP-2023-2011. As against the aforesaid Single Bench judgment, an intra-court appeal was also filed which was dismissed followed by the SLP which met the similar fate. To that extent since Single Bench judgment has since attained finality, writ petitions are allowed in the aforesaid terms. Petitioners shall also be entitled to monetary benefits restricted to 38 months' prior to filing of the writ petition.

13. As an upshot of the above discussion, impugned order is set aside with consequence to follow as already noted above. Arrears of salary be paid within a period of three months from today."

3. From perusal of the aforesaid judgment, it appears that the petitioner is on parity with the petitioner(s) in CWP No.27127 of 2016 and I need not labour all over again as I am in agreement with the ratio rendered in the judgment *ibid*.

4. Writ petition is allowed in the same terms as in CWP No.27127 of 2016 and the impugned order dated 22.06.2016 (Annexure P-6) is set aside. Arrears of salary be paid within a period of three months from today.

5. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

August 18, 2022
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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No