

358 (3 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16873-1996 (O&M)

Date of Decision: 07.08.2023

SUKHDEV SINGH AND ANOTHER

.....Petitioners

V/s.

*STATE OF PUNJAB THROUGH THE SECRETARY TO GOVERNMENT
OF PUNJAB, TRANSPORT DEPARTMENT, PUNJAB AND OTHERS*

.....Respondents

CWP-18044-1996 (O&M)

JASPAL SINGH AND OTHERS

.....Petitioners

V/s.

*STATE OF PUNJAB THROUGH THE SECRETARY TO GOVERNMENT
OF PUNJAB, TRANSPORT DEPARTMENT, PUNJAB AND OTHERS*

.....Respondents

CWP-4528-2000 (O&M)

MANGAL DASS AND OTHERS

.....Petitioners

V/s.

*STATE OF PUNJAB THROUGH THE SECRETARY TO GOVERNMENT
OF PUNJAB, TRANSPORT DEPARTMENT, PUNJAB AND OTHERS*

.....Respondents

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.**

Present Mr. Ashish Gupta, Advocate,
 Mr. Mayank Vashisht, Advocate,
 for Mr. Prateek Mahajan, Advocate,
 for the petitioners.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. This order shall dispose of three connected Writ Petitions as
the issue involved in both the Writ Petitions is common.

2. Learned counsel for the petitioner(s) in all three Writ Petitions has jointly argued, however, for the sake of convenience, the facts are being taken into consideration from CWP-16873-1996 (O&M) for disposal of these Writ Petitions.

3. The petitioners by way of this Writ Petition pray for issuance of directions to the respondents to grant senior scale of ₹1200-₹2100 w.e.f. 01.01.1986 as per their seniority and from the date persons junior to them have been granted the said scale. They also pray for quashing of the order dt.26.06.1996 (Annexure P-3) whereby the senior scale was granted to the persons junior to them.

4. Learned counsel for the petitioners submits that the Department issued an order for grant of senior scale ₹1200-₹2100 to 50% of the posts of the Conductors and Adda Conductors vide notification dt.03.05.1991 w.e.f. 01.01.1996. The respondents did not consider candidature of the petitioners and granted the said benefit to the persons who were lower in merit. Although on the relevant period from 01.01.1986. The petitioners' service record was clean.

5. *Per contra*, reply has been filed and it has been pointed out that the cases of the petitioners were considered by preparing the joint seniority of Conductors and Adda Conductors and Booking clerks at the state level. The senior scale was granted on the basis of seniority cum merit after considering the entire service record of the official, thus, the said senior scale was to be granted to 1904 employees against the sanctioned posts of 3809 employees. However, while considering the case of the

petitioner-Sukhdev Singh, it was found that he had awarded several punishments on various dates i.e. 14 increments were stopped with cumulative effect and 8 increment without cumulative effect and thus, he was brought down to time scale for 19 years. The petitioner was under punishment as on 01.01.1986 and since the said punishment orders were in force and his increments were stopped for the relevant period, even after 01.01.1986 on 09.09.1985, two increments were stopped and again on 02.05.1996, one increment was stopped with cumulative effect. In the circumstances, no relief can be granted to the petitioners.

6. I have considered the submission and taking into consideration the number of punishments awarded to the petitioners, benefit of senior scale which is in lieu of the promotion could not have been granted.

7. It has been a settled law in the case of **Union of India and Others Vs. K.V. Jankiraman and Others**, 1991 (4) SCC 109 that no person can be awarded the benefit of promotion if he or she is suffering punishment(s). The same principle would apply for grant of senior scale too.

8. In view thereof, the Writ Petition is devoid of merits and is dismissed accordingly.

9. Pending application(s), if any, stand(s) disposed of.

CWP-18044-1996 (O&M) & CWP-4528-2000 (O&M)

10. The law as laid down in **CWP-16873-1996(O&M)** decided hereinabove, would apply *mutatis mutandis* to these cases and accordingly this Writ Petitions are also **dismissed**.

11. Pending applications, if any, shall stand disposed of accordingly.

August 7, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned : *Yes/No.*

Whether Reportable : *Yes/No*