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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1941-1997 (O&M)

Date of Decision: 30.11.2023

RAM PARKASH YADAV

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present Mr. Samuel Gill, Advocate for
Mr. R.D. Bawa, Advocate for the petitioner.

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

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner has preferred this Writ Petition praying for issuance of writ in the nature of *certiorari* for quashing of order/letter dated 13.11.1995, 18.04.1996 and 21.12.1996 and for issuance of Writ in the nature of *mandamus* for directing the respondents to release the annual increment due w.e.f. 27.07.1995 and 27.07.1996 with all consequential benefits.

2. The petitioner was fixed in the revised pay scale with effect from 01.01.1986 upon submitting his option. He was accordingly fixed at the pay of ₹1640/-. Counsel for the petitioner submits that thereafter upon giving him benefit of senior scale on completion of 8 years of service, he was fixed at pay of ₹1680/- and accordingly his pay was fixed. However, the respondents reduced his basic pay from ₹1680 to ₹1640 stating that granting of selection/senior scale is a mere placement and no increment would be available.

3. Learned State counsel supports the action of the respondents.

4. I have considered the submissions of the learned counsel for the parties and find that this Court directed the respondents to pass a speaking order which was passed on 21.12.1996 stating as under

“The State Govt. revised the pay scale w.e.f. 1.1.86 and you also opted for the same. The Govt. has made a provision of Senior/Selection grade for all the employees after completion of 8/18 years service. While placing the senior or selection grade there is no provision to give the benefit of additional increment, as no higher or additional responsibilities on the employee when placed in the senior and selection grade. Thus pay fixed by the C.E.O. Jullundhur on 1.1.1986 has been reviewed and cancelled and revised fixation has been issued vide CEO., Jullundhur order no. Auditor 96/Pay fixation/4565-67 dated 18.4.1996.”

5. The reasoning given by the respondents is found to be erroneous. Once a person is entitled for benefit of senior scale or selection grade on completion of 8/18 years of service, it would mean that on completion of eight years of service, he would be given one upper increment.

6. The benefit of senior scale or selection grade is given to individuals in lieu of promotion and on account of stagnation in service. Thus, the benefit of only upper increment is given while no promotion increment of lower stage as well as of upper stage is given. This being a difference alone, it cannot be stated that while placing a person in the selection or senior scale grade, the benefit of additional increment would not be given to him. The additional increment of the upper stage has to be given and accordingly it is noticed that as per the previous pay fixation

done for the petitioner, he was given upper increment of ₹40/- and his pay was fixed at ₹1680/- and accordingly, his pay was revised.

7. The action of the respondents in cancelling the earlier fixation made vide order dated 18.04.1996 is thus, found to be wrongful and erroneous and the same cannot be sustained. The speaking order passed to cover such mistake is also found to be without basis and is a clear erroneous interpretation of the granting of senior scale or selection grade to a Government employee on completion of 8/18 years of service.

8. Accordingly, this Writ Petition is allowed. Order dated 18.04.1996 is quashed and set aside. The fixation done earlier of the petitioner is held to be in accordance with law. The petitioner would be entitled to all consequential benefits. The arrears shall be calculated accordingly and released to the petitioner. The exercise be conducted within a period of three months henceforth. No costs

9. All pending applications filed in this Writ Petition shall stand disposed of accordingly.

November 30, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>