

CWP-8093-2023

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CWP-8093-2023

Date of decision : 20.04.2023

Mukesh Kaushik and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sube S. Kaushik, Advocate
for the petitioners.

...

SUVIR SEHGAL, J. (Oral)

1. Instant petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to grant technical pay scale of Rs.1200-2040 (now revised to Rs.5200-20, 200+2400) to the petitioners from the date of their appointment to the post of Cinema Operator-cum-Video Technician. Another prayer has been made for directing the respondents to release arrears of difference of salary along with interest.

2. Counsel for the petitioners submits that the petitioners are matriculates and possess ITI Certificates. By making a reference to the affidavit dated 13.12.2010, Annexure P-1, of the Chief Secretary, Government of Haryana, counsel urges that the petitioners are holding technical posts. Counsel has placed reliance upon instructions dated

26.07.1991, Annexure P-2, whereby higher pay scale has been granted to the employees discharging duties on technical post. Reliance has also been placed on judgment dated 01.08.2012, Annexure P-5, passed by the Coordinate Bench of this Court in ***CWP-14525-2012 titled as Naveen Kumar and others Versus State of Haryana and others.***

3. Counsel for the petitioners has been heard.

4. The arguments raised by the counsel do not hold any water. After coming into the force of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014 (for short “the Act of 2014”), Annexure P-4, there has been a sea change in the position. This Act was notified to remove anomaly in the pay-scales of technical and non-technical posts. Sections 3 and 4 of the Act 2014, which are relevant, are reproduced as under:-

“3. Notwithstanding anything contrary contained in any service rules, instructions etc. all persons serving on various posts in different services under the State shall be entitled to get the pay scales prescribed for those posts only under the relevant service rules, notifications and instructions issued from time to time and no person who is serving or has served on any post in any service under the State shall be entitled to a higher pay scale on account of possessing a technical qualification, or on account of serving or having served on a post for which the prescribed qualification is/was of technical nature i.e. Matric with ITI/Polytechnic or Non-Matric with

ITI/Polytechnic.

4. *The entry at serial number 3 under 'common category posts' in the annexure to instructions bearing No.1/54/2PR(FD)-82, dated 30.03.1982, at serial number 40 in annexure A to instructions bearing No. 6/23/3PR(FD)-88, dated 23.08.1990, No. 6/23/3PR(FD)-88, dated 26.07.1991 and No.6/83/2009-3PR(FD), dated 09.08.2010 are hereby withdrawn and shall be deemed to have been withdrawn with effect from the date of their coming into force:*

Provided that all those persons who had already been granted unconditionally the up-graded pre-revised pay scale and drawing the same before date of notification of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-technical Posts) Ordinance, 2013 (Haryana Ordinance No.6 of 2013), viz the 10th December, 2013, shall continue to draw these pay scales, as a measure personal to them."

5. A perusal of the above reproduced provisions shows that various instructions issued over a period of time, including instructions, Annexure P-2, have been withdrawn. Proviso to Section 4 of the Act of 2014 protects those employees, who have been extended the benefit of technical pay scale prior to 10.12.2013, that is, the date from which the Ordinance came into force. It has been provided that such employees shall continue to draw technical pay scale as a personal measure.

CWP-8093-2023

-4-

6. In view of above, reliance placed by the counsel for the petitioner upon judgment of the co-ordinate Bench, will not come to his aid as it has been passed much before the coming into force of the Act of 2014

7. There is no merit in the petition, which is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

20.04.2023
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes