

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-16186-2020 (O&M)
Decided on : 14.11.2023

Randhir Singh And Others

. . .Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jasbir Mor, Advocate for the petitioners.

Mr. Harish Nain, AAG, Haryana.

Ms. Poonam Rani, Advocate for

Ms. Reena Chaudhary, Advocate for respondent No. 6.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present petition has been filed by the petitioners for directing the respondents to grant the benefit of stepping up of pay to the petitioner equivalent to that of their juniors i.e. the private respondents.

Certain facts needs to be mentioned qua the grievance of the petitioner as raised in the present petition.

The petitioners competed for the post of Statistical Assistant, which was advertised by the respondents-department by advertisement No. 5/2007 dated 06.05.2007 and after the competition of the selection process, the petitioners were selected in the final result and their names were recommended for the appointment on the post in question.

2. After the recommendation of the names of the petitioners, the documents submitted by the candidate to support their claims qua eligibility were required to be verified for issuance of appointment letter but the respondents-department took a long time to verify the documents of the petitioners and in the meanwhile they had already allowed the candidates lower in merit than the petitioners i.e. the private respondents to be appointed on the post question.

3. After the documents submitted by the petitioners to support their claim were found to be genuine, the petitioners were also appointed on the post in question and keeping in view the fact that the candidates who were lower in merit than the petitioners were appointed prior to the date when the petitioners were offered appointment, the petitioners were also given appointment with retrospective effect from the date when the candidates lower in merit were appointed.

4. The grievance of the petitioners in the present petition is that by the time the petitioners were given appointment, the candidate lower in merit had already rendered two years of service and had earned the benefit of increment which benefit was not given to the petitioners on the ground that the petitioners were only entitled for appointment after verification of their documents.

5. Learned counsel for the petitioners argues that once the petitioners have been given appointment from the date when the candidate lower in merit have been given appointment, the petitioners are also to be given the benefit of increment equivalent to the increment given to the candidates lower in merit i.e. the private respondents but despite being senior in merit and in the seniority list, the petitioners are getting lesser pay than their juniors.

6. Learned counsel for the respondents on the other hand submits that the delay in appointment of the petitioners occurred only due to the verification of their testimonial but once their documents were verified, the petitioners were given appointment, hence, the grievance being raised by the petitioners to grant them the benefit of increment which were granted to the candidates lower in merit so as to step up of their pay may kindly be declined.

7. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

8. Once, it is a conceded position that the petitioners had competed and were appointed by way of a direct recruitment, the merit obtained by a candidate in the selection process is to be treated as a seniority position and the petitioners are seniors to various employees who were lower in merit but were offered appointment prior to the petitioners on the ground that their testimonials got verified at prior as compared to the verification of the documents of the petitioners.

9. Even after, the fact that the petitioners were appointed after a period of five months but they were given appointment with retrospective effect, the petitioners are also entitled for the grant of increment and delay in appointment cannot be treated adverse to the petitioners as they had no role to play in their late appointment.

10. Furthermore, it is a settled principle of law that a senior cannot be given a lessor salary than the juniors whereas in the present case, the candidates who were lower in merit and are juniors to the petitioners in seniority list are getting higher salary than the petitioners as they had been granted one increment upon their appointment which benefit has not been extended to the petitioners.

11. Keeping in view the above, the petitioners have a valid ground to claim the increment which has been granted to the candidates who were lower in merit and their pay needs to be step up from the date when the petitioners were offered appointment.

12. Accordingly, respondents are directed to grant the said benefit of increment to the petitioners and step up their pay with effect from the date when the petitioners were appointed alongwith all consequential benefits of

arrears.

13. Let the present order be complied with within a period of two months from the date of receipt of certified copy of this order

14. Ordered accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

14.11.2023

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: -Yes/~~No~~