

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

219

CWP-12454-2017

Date of Decision: 07.07.2023

Sarabjit Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

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

Present: Mr. H.K. Brinda, Advocate  
for the petitioner.

Mr. Vikas Arora, AAG, Punjab.

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**SANJEEV PRAKASH SHARMA, J (ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus for directing respondent No.2 to consider and promote the petitioner as Naib Tehsildar.

2. Learned counsel for the petitioner submits that while the petitioner was holding the substantive post of Kanungo, who was directed vide order dated 07.05.2013 to hold the post of Naib Tehsildar and was posted at the vacant and sanctioned post, it was mentioned in the order that the petitioner is liable to be reverted on the availability of regularly selected Naib Tehsildar. In terms of the said order, he joined on the said post on 08.05.2013 and continued to perform his duty on the higher post till he attained the age of superannuation on 31.05.2015.

3. Learned counsel for the petitioner further submits that the petitioner was having all the requisite qualification and experience for holding the post of Naib Tehsildar by way of promotion. It is also submitted

that the petitioner had cleared the departmental examination required for promotion to the post of Naib Tehsildar in the year 1999 itself. The pay scale of Kanungo is 10300-34800+4200/- G.P. while the Naib Tehsildar carries a grade pay of 4800/- in the same pay scale. Learned counsel further prays that the petitioner should be treated as having been regularly promoted on the post of Naib Tehsildar and his pension and retrial benefits should be accordingly fixed.

4. Per contra, learned State counsel submits that the petitioner was not within the zone of consideration for regular promotion as per his seniority but does not deny the fact that the petitioner possessed the requisite qualification for promotion.

5. I have heard learned counsel for the parties at length and have considered the submissions.

6. Considering the above said aspects, this Court finds that in terms of the Para 4.4(c) of the Punjab Civil Services Pay Fixation Rules, the petitioner would be entitled to the salary for the period he was working on the higher post. For this purpose, Rule 4.4(c) reads as under:-

*“4.4 (c) (i) Notwithstanding anything contained in these rules, where a Government employee holding a post in a temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above his pay drawn by him in the lower post provided it is certified by the Head of the Department in which the Government employee was holding the lower post that he would have continued to officiate in the lower post but for his promotion/appointment to the higher post:*

*Provided that if a Government employee either –*

*(a) has previously held substantively or officiated in –*

*(i) the same post, or*

*(ii) a permanent or temporary post on the same time-scale, or*

*(iii) a permanent post other than a tenure post, or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time-scale;*

**or**

*(b) is appointed substantively to a tenure post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated; then proviso to rule 4.4 (b) shall apply in the matter of the initial fixation of pay and counting of previous service for increment.*

*(ii) The provisions of sub-rule 2 of rule 4.14 shall also be applicable in any case where the initial pay is fixed under this clause. In cases, where a Government employee is, immediately before his promotion or appointment to a higher post, drawing pay at the maximum of the time scale of the lower post, his initial pay in the time scale of the higher post shall be fixed in the same manner as provided in sub-clause (1) above.”*

7. Accordingly, the present petition is allowed. The petitioner would get the arrears of the salary of the higher post for the period from 2013 till he retires and the same shall be released to him. However, granting of higher salary for the work done on the higher post would not mean that the petitioner would be entitled for pension of the higher post and substantive post which the petitioner was holding at the time of retirement, would remain as that of Kanungo. Compliance thereof shall be made within a period of three months from today.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**07.07.2023**

*D.Bansal*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No