

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22987-2016

Date of decision : 02.02.2023

Pardeep Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gagneshwar Walia, Advocate
for the petitioner.

Mr. Sehajbir S. Aulakh, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Petitioner is aggrieved of the order dated 16.07.2016 (Annexure P-11), whereby the petitioner admittedly appointed on regular basis against vacant post of Carpenter was being made to draw salary against the vacant post of Dhobi.

2. On 06.09.2022, narrowing down the controversy, this Court passed the following order:-

“The entire grouse of the petitioner herein is that he was appointed as a Carpenter on compassionate ground with the Punjab Police. He sought the benefit of enhanced pay scale, which has resulted in him being now treated as Dhobi.

Learned counsel for the petitioner herein would contend that in fact, petitioner is governed by the Punjab State (Class-IV) Service Rules, 1963, which has been acknowledged by virtue of Annexure P-13 and, therefore, any reliance on the Rules placed pertaining to qualification of a Carpenter as prescribed under the

Punjab Health and Family Welfare Technical (Group-C) Service Rules, 2015 would not be applicable to the petitioner herein. He would rely on the names of the persons reflected at page No.114 of the paper-book i.e. in the replication itself, wherein similarly situated persons are getting the benefits under the Punjab State (Class-IV) Service Rules, 1963.

Learned State counsel seeks some time to get necessary instructions as to how and on what basis the Rules as relied upon in the written statement are made applicable to Class-IV employees.

Let consideration be taken in this regard and in case, the petitioner herein is entitled to the relief as sought, the same be accorded to him, failing which, the consideration denying him his benefits, be placed on the record on the next date of hearing.

Adjourned to 19.10.2022.”

3. Pursuant to said order, additional affidavit of Mukhvinder Singh Chhina, IPS, Inspector General of Police, Bathinda Range, Bathinda has been filed, wherein the applicability of 1963 Rules has been admitted and it has been stated as under:-

“xx xx xx

2. That in compliance with order dated 06.09.2022 referred above, the service record of the petitioner has been perused carefully and it has found that as per the official record, the petitioner Pardeep Singh s/o Late Constable Sh. Babu Singh No. 667/Bathinda, resident of H. No. 26745, Street No. 4, Amarpura Basti Bathinda was initially appointed as temporary Water Carrier Contingent paid (whole time) in police departmention compassionate ground by the Senior Superintendent of Police, Mansa vide his office order No. 6097-6102/B/CRC dated 14.05.2004 (Copy of the order dated

14.05.2004 is annexed as Annexure-R-1/T). Subsequently, in compliance with the directions issued by The Director General of Police, Punjab, Chandigarh vide letter No.13640-50/E-3(2) dated 08.11.2011 and letter No. 15035-45/E-3(2) dated 14.12.2011 as well as Order No. 8609-11/AC-3 dated 23.12.2011 issued by the Deputy Inspector General of Police, Bathinda Range, Bathinda, the service of the present petitioner was regularized by the Senior Superintendent of Police, Bathinda vide his office order No. 4573-83/Spl-B/AC-2 dated 19.07.2012 (Annexure-P-5) against the regular post of Carpenter lying vacant due to the dismissal of Carpenter Satpal Singh, for pay purpose only because the petitioner was not eligible for the post of Carpenter. Thereafter the Order No. 8609-11/AC-3 dated 23.12.2011 was modified by Deputy Inspector General of Police, Bathinda Range, Bathinda vide order No. 7619/AC-3 dated 14.07.2016 (Annexure-P-11) to the extent that Pardeep Singh (present petitioner) who is getting pay against the vacant post of Carpenter since 19.07.2012 to till date, will now get his pay against the regular vacancy of Washer Man (Class -IV) instead of Carpenter as one Sh. Lal Bihari Washer Man has been retired from his service W.E.F. 31.03.2016.

3. That the services of Class-IV employees is governed by The Punjab State (Class-IV) Service Rules, 1963 amended time to time.”

4. Once the authorities do not dispute the application of 1963 Rules and are admitting that the petitioner was appointed as Carpenter, P-11 impugned in the present writ petition cannot be sustained. The petitioner having been appointed as Carpenter has a right to continue so and the post of the petitioner cannot be changed as is being proposed to be done vide

P-11.

5. Consequently, the present petition is allowed. Annexure P-11

is ordered to be quashed.

(PANKAJ JAIN)
JUDGE

02.02.2023

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No