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

CWP-19492-2017

Date of decision : 02.03.2023

Prithvi Raj

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

None for respondent No.3.

Mr. S.P.S. Tinna, Advocate
for respondent No.4.

PANKAJ JAIN, J. (Oral)

Pursuant to order dated 03.02.2023, respondent No.4 has filed reply. The same is taken on record. Registry is directed to tag the same at appropriate place.

2. Petitioner seeks writ in the nature of certiorari for quashing the impugned order dated 17.02.2017 (Annexure P-11).

3. Petitioner was appointed as Light Patroller on 24.11.1982. Pay scale of Light Patroller was revised vide memo dated 22.10.1980 from 80-140 to 325-495. It was further revised in the Municipal Corporations in the State from 325-495 to 400-800 w.e.f. 01.01.1978 and thereafter to 950-25-1200-30-1560-40-2000-50-2100. The petitioner was aggrieved of non-grant of revisionary pay scale w.e.f. 01.01.1978 in view of instructions dated 06.11.1999 and non-released of arrears. He served representation dated

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07.12.1989 and legal notice dated 29.02.2016. After respondents did not respond to the same, the petitioner approached this Court by way of CWP No.7599 of 2016. Direction was issued to the respondents to take decision on the legal notice dated 29.02.2016 served at the behest of the petitioner. Municipal Council in compliance with the orders passed by Writ Court, sent communication to the Director, Local Government Punjab observed as under:-

“xx xx xx

In the above noted case, Sh. Prithvi Raj above joined the services of Municipal Council, Abohar, as Light Patroller on 01.11.1982. So the Sh. Prithvi Raj is entitled for the pay scale of Rs. 400-800 from 01.11.1982 only. The pay scale was revised from 01.01.1986. The said Prithvi Raj had been getting the said revised pay scale of Rs. 950-2100 from 21.11.1990 as per the resolution No. 410 dated 26.11.1990. The order dated 21.11.1990 has been issued by the Joint Secretary Local Govt. Punjab, vide his letter No. JA-DCFA- DLG-90/50588 dated 21.11.1990. So, as per the directions issued in the said letter the Prithvi Raj is entitled for the said revised pay scale from 21.11.1990 only. The Prithvi Raj has always failed to submit his option for getting the salary according to revised pay scale.

The Municipal Council Abohar has always paid the salary to its employees according to the latest pay scale after submitting the option forms by the respective employees. The letter No. 2/147-97-6SSI/14162 dated 01.12.1998 Chandigarh, issued by Punjab Government is not applicable to the Municipal Council, Abohar. So the petitioner is not entitled for the pay scale of Rs. 1640-3200 after service of 9 years and scale of 2000-

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3500 after service of 16 years.

The undersigned has carefully considered the claims of petitioner and representations made by him and have applied his mind. Accordingly, the speaking order is passed.”

4. In the light of the aforesaid observation made by Municipal Council, the Director, Local Government Punjab rejected the claim of the petitioner. During the course of hearing on 03.02.2023, the issue involved in the writ petition was culled out as under:-

“The short issue involved is as to whether the petitioner who joined as Light Patroller on 01.11.1982 was paid the admissible pay scale of Rs. 400-800/- from the date of his joining till 01.01.1986.

Mr. S.P.S.Tinna, Advocate for respondent No.4 prays for time to seek instructions.

Adjourned to 21.02.2023.”

5. Affidavit on behalf of respondents No.4 has been filed, wherein it has been admitted that the petitioner was not paid pay scale of Rs.400-800 from the date of his joining i.e. 01.11.1982 till 01.01.1986. Respondents in their written statement admitted that the petitioner was entitled for the revised pay scale from 21.11.1990. However, no justification has come forth as to how he was not entitled for the pay scale admissible to the post of Light Patroller w.e.f. his date of joining i.e. 1982 in terms of letter dated 05.09.1986 whereby, pay scale admissible to the post of Light Patroller was held to be 400-800 and that too w.e.f. 01.01.1978. The relevant para of written statement on behalf of respondent No.4 reads as under:-

“xx xx xx

7. That the petitioner was appointed as a Light Patroller and the post of Light Patroller is a Class-IV

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post and the same has been clearly defined in the Appendix of the Punjab Municipal Employees (Class-IV) Service Rules, 1986 and further as per the letter of Director, Local Government, Punjab dated 06.11.1989, the pay scale of the Light Patroller was increased from 400-800 to 950-2100, but there was a condition of ITI Diploma and because of this reason, the pay scale demanded by the petitioner cannot be granted. The copy of the order dated 06.11.1989 is already annexed with the petitioner as Annexure-P-2.”

6. The stand taken by respondents is self-contradictory. They admitted that vide letter dated 06.11.1989, pay scale of Light Patroller was increased from 400-800 to 950-2100 and that is payable to the petitioner for having worked as Light Patroller but still want to suggest that unrevised pay scale of 400-800 will not be admissible to the petitioner. Further, annexure P-2 reads as under:-

**“Government of Punjab
Department of Local Government Punjab Chandigarh**

No. JA2-DCFA-89/46006

Dated: 06.11.1989

ORDER

In pursuance of the provision of rule 3 (H) of the Punjab Civil Services (Revised Pay) Rules, 1988, as adopted by the Department of Local Government Punjab, the President of India is pleased to release the revised scale of Pay to the following categories of employees of the Urban Local Bodies whose existing pay scale were not identical to the pay of the Punjab Government employees, on the pay scales of the Punjab Government employees on the same terms and conditions as has been prescribed in the Punjab Civil Services (Revised) Rule 1988.

This order will not be applicable to those categories of employees whose pay scales have already been revised vide

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endorsement no. JA2-SAO-DLG-89/50366-506 dated 7.12.1988 and JA2-SAO-DLG-89/11600-664 dated 21.3.1989.

1. The pay scale of categories which are not covered under this order will be revised separately.

Sr. No.	Name of post	Existing Scale In Rupees (Un revised)	Revised Scale
Xxxxxx			
2.	Light Patrollers	400-800	950-25-1200 30-1560-40- 2000-50-2100

Sd/- K.S. Janjua
Secretary to Govt. Punjab
Local Government Department,
Chandigarh”

7. It nowhere prescribes that the Light Patroller should be an ITI Diploma Holder to be eligible for revised pay scale.

8. Resultantly, in the absence of any cogent reason to deny the pay scale admissible to the cadre of Light Patroller, the action of the respondents in denying the same to the petitioner cannot be sustained.

9. Consequently, the present writ petition is allowed. Impugned order dated 17.02.2017 Annexure P-11 is ordered to be quashed. Necessary relief be granted to the petitioner within 08 weeks from the date of receipt of certified copy of the order @ 6% interest from the date petitioner was entitled till the date of actual realization.

(PANKAJ JAIN)
JUDGE

02.03.2023
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No