

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

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**CWP-19537-2018 (O&M)
Date of decision: 15.02.2023**

Mahabir Parsad and others

...Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Parminder Singh, Advocate for the petitioners.

Mr. Rohit Arya, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of certiorari quashing the order dated 07.11.2017 (Annexure P-4) whereby the benefit of step-up of pay scale equivalent to the junior counterparts/Class-IV employee has been rejected.

Learned counsel for the petitioners submits that petitioners were appointed as Peon-cum-Chowkidar/Mali/Peon on regular basis through Employment Exchange in the respondent-Department. The petitioners were not considered for the promotion and accordingly the Assured Career Progression (ACP) were granted to them. As on 01.03.1983, the petitioners were drawing the basic pay of Rs. 890/- and upto the year 1995, their pay was higher than the juniors namely, Ram Singh-Mali and Balraj-Mali, in the Department. The petitioners were wrongly put on the basic pay of Rs. 2780, whereas above juniors were drawing pay-scale of Rs. 3050/-, w.e.f. 01.01.1996 and similarly, the petitioners were again put under basic pay of

Rs. 6650+1800 as on 01.01.2006, whereas the juniors were drawing basic pay of Rs. 7070+1800.

Learned counsel for the petitioners further submits that thereafter, petitioner No.2 and 4 moved a representation (Annexure P-3) and the same was decided vide order dated 01.04.2019 by the District Education Officer, Kaithal, without considering the case of the petitioners.

On the other hand learned State counsel submits that the undue benefit of wrong pay fixation was granted to Balraj and Ram Singh (with whom the petitioners are seeking parity), without any *malafide* intention, the same has been rectified w.e.f. 01.01.1996 and revised pay has been entered in the service book by the concerned Drawing and Disbursing Officer (DDO) and now the Department is in the process of recovery of the excess amount from both the employees.

I have heard the learned counsel for the parties and have also gone through the case file.

Perusal of order dated 01.04.2019 would itself reveal that Balraj and Ram Singh, both posted as Mali, are Group-D (Class-IV) employees and the seniority of such employees is maintained at the School/Institution level by the concerned School Head as per Haryana State Secondary Education Field Offices (Group D) Service Rules, 1998 and their seniority cannot be compared with the seniority of same post of other School/Institution post. Thus, the pay of both the employees has been re-fixed by the DDO and the same has been verified.

Since the pay of Balraj and Ram Singh was wrongly fixed, without any *malafide* intention, and vide order dated 01.04.2019, the same

has been re-fixed w.e.f. 01.01.1996 and the petitioners are claiming for giving the benefit of step-up of pay scale equivalent to them and as the recovery of excess paid amount to them due to wrong fixation of salary is to be effected, no further arguments have been raised by the learned counsel for the petitioners, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

15.02.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No