

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

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**CWP-26927 of 2014 (O&M)
Date of decision: 07.02.2023**

Mahil Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jaskirat Singh, Advocate, for
Mr. Ramesh Chander Sharma, Advocate
for the petitioner.

Mr. Gurpreet Singh, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. The petitioner on being appointed as a Peon in the Education Department, Punjab, prays for the benefit of protection of pay which he had last drawn in the Indian Army before his retirement from the armed forces.
2. On the other hand, the learned counsel representing the State of Punjab submits that the protection of pay is applicable in case of re-employment while in service.
3. The learned counsel representing the petitioner draws the attention of the court to para 5 of the instructions dated 15.11.2000, which reads as under:-

5. In view of the above it has been decided that:-

(i) An employee who has previously held substantively or officiated in the same post, or a permanent or temporary post on the same time scale or a post having identical three/four times pay scales or in which time bound placement / grant or higher pay are provided as in the new post, in a Government department or a body incorporated or not which is wholly or substantially owned by the Government), shall in addition to the protection of pay actually drawn in the corresponding scale as per provisions of Rule 4.4(b) of Punjab Civil Services Rules, Vol.-1, Part-I

count his previous service for the purpose of time bound promotion/grant of higher scale in the new post/ service. This protection will be as a measure personal to him. He shall not be entitled to benefit of this time bound promotion towards seniority and shall be placed lower to those already higher up in the seniority list.

(ii) Where an employee is already getting senior/higher pay scale or earns a senior/higher pay scale in the previous service where a percentage of senior higher scale is prescribed after he has joined the new postservice; pay an fixed in the senior higher scale in the old service shall also be protected as a measure personal to him in the initial scale of the new post and he shall be placed in the senior scale when his turn comes for the same in the normal course.

An employee shall not be entitled to take benefit of this protection towards seniority nor any official senior to him shall have any claim for re- fixation of pay on the basis of protection allowed as above.

(iii) These instructions shall not apply in case of employees of various Public Sector Undertaking who are offered employment in the Government on compassionate grounds on being declared surplus or otherwise. They should be deemed to be joining service under the Government for the first time as at present.

(iv) These instructions will come into effect immediately. The cases decided on or after 15.12.98 may be reviewed in consultation with the Finance Department in order to ensure uniformity.”

4. On careful reading of the aforesaid instructions, it is evident that these instructions are applicable in the case of service employees, who seek re-employment while being in the active service of the armed forces.

5. In the present case, the petitioner retired from service on 31.01.1993, whereas he was appointed as a peon on 30.12.1996.

6. In view of the aforesaid facts, no ground to issue the writ as prayed for is made out.

7. Dismissed

8. All the pending miscellaneous applications, if any, are also disposed of.

February 07, 2023
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(ANIL KSHETARPAL)
JUDGE

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