

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

CWP No.3768 of 2014 (O&M)

Date of Decision.11.05.2023

Kashmir Singh

...Petitioner

Vs

Addl. Chief Secretary to Government of Haryana-cum-Financial Commissioner
and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.S. Dalal, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Pardeep Solath, Advocate
for respondent No.5.

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JAISHREE THAKUR J. (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking to challenge order dated 02.09.2013 (Annexure P-5) passed by respondent No.2 and further to issue directions to the respondents to grant pay scale of Rs.5000-7850 to the petitioner from the date of his appointment to the post of Clerk on 01.12.2004 and also to grant revised pay scale as given to others w.e.f. 1.1.2006, along with arrears of pay with interest @18% per annum.

2. In brief, facts of the case are that the petitioner was appointed as Clerk by respondent No.5-Society on 01.12.2004 in the pay scale of Rs.3050-75-3950-EB-80-4350 whereas similarly situated Clerks working in the same Society were being granted pay scale of Rs.5000-150-7100-EB-150-7850. Even during the audit of the respondent No.5-Society, it was pointed out that two employees appointed as Clerk were being given lower pay scale of Rs.3050/- and therefore, advised to give them pay scale of Rs.4000/-. The existing pay scale of the post of

Clerk had been revised from Rs.5000-7850/- to Rs.9300-34,800+3200 as Grade Pay, in view of the recommendations made by the 6th Pay Commission. The petitioner made various representations to the respondent No.5-Society to grant him the pay scale equivalent to the pay scale being granted to his counterparts from the date of his appointment and further to grant him revised pay scale. A legal notice dated 25.09.2012 was also given but no action had been taken thereon. Thereafter, petitioner filed CWP No.8146 of 2013 before this Court, which was disposed of vide order dated 12.04.2013 with a direction to decide legal notice dated 25.09.2012 by passing a speaking order. Pursuant to order dated 12.04.2013, respondent No.2 considered the legal notice of the petitioner and vide order dated 02.09.2013 rejected the claim of the petitioner. Aggrieved against the order dated 02.09.2013 passed by respondent No.2, petitioner has filed the instant writ petition.

3. Learned counsel appearing for the petitioner would contend that respondent No.2 has rejected the claim of the petitioner erroneously on the ground that other employees are getting the higher pay scale only on account of the fact that they have been awarded 1st and 2nd ACP on completion of their 10 and 20 years regular service. It is argued that the pay scale granted to counterparts of the petitioner is not due to the fact that they were granted ACPs but owing to revision of pay scale w.e.f. 01.01.1996 effected vide notification dated 07.01.1998, which benefit has been denied to the petitioner. It is also argued that in fact, employees of respondent No.5-Society are not entitled for any ACP.

4. Learned counsel appearing for respondent No.5-Society would submit that the petitioner herein was appointed as Clerk vide resolution dated 29.11.2004 in the pay scale of Rs.3050-75-3950-EB-80-4350/-. The petitioner

accepted the offer of appointment vide aforesaid resolution, however, challenged the same with respect to grant of pay scale after a period of 8 years when he issued legal notice and thereafter, approached this Hon'ble Court. The petitioner has been granted revised pay scale of Rs.5200-20200+GP Rs.1000 w.e.f. 01.01.2006 vide resolution No.2 dated 26.05.2009 and thereafter, 1st ACP in the pay band of Rs.5200-20200+GP 2400/- has been granted w.e.f. 04.03.2014 when the respondent No.5-Society adopted the instructions dated 04.03.2014. Even the petitioner has been granted the revised pay scale as per 7th Pay Commission w.e.f. 01.01.2016 and basic pay of the petitioner as on 01.07.2019 was Rs.33,300/- plus dearness allowance. The 2nd ACP of the petitioner would be granted to him on completion of his 16 years of service. Another employee namely Mohar Singh, Clerk, who was appointed with petitioner, has also been granted the same pay scale and ACP as has been given to the petitioner.

5. I have heard learned counsel for the parties and have perused the paper book. The argument raised by the counsel appearing for the petitioner that he was being granted lower pay scale on the post of Clerk than his counterparts is not sustainable, keeping in view the fact that the difference of pay scale is on account of the fact that his counterparts have been granted ACPs on completion of certain years of service. Vide order dated 08.02.2019, this Court directed the counsel appearing for respondent No.5 to file a specific affidavit with regard to contention raised by him that petitioner would have been granted the ACP on completion of requisite years of regular satisfactory service. In pursuance to order dated 08.02.2019 passed by this Court, an affidavit dated 30.09.2019 has been filed wherein it has been stated that pay scale of the petitioner has been revised as per recommendations of the 6th Pay Commission as Rs.5200-20200+1800 as Grade Pay w.e.f. 01.01.2006 and further 1st ACP has been granted

in the pay band of Rs.5200-20200+2400 as GP w.e.f. 04.03.2014 on completion of 10 years of service and w.e.f. 01.01.2016, his pay scale has been revised as per recommendation of 7th Pay Commission. It was also stated therein that 2nd ACP of the petitioner is due w.e.f. 01.12.2020 on completion of his 16 years of service, which ought to have been granted to the petitioner by now. In fact, the employee, who was appointed with the petitioner, has been granted same pay scale and ACP as has been granted to the petitioner. The argument raised by the counsel appearing for the petitioner that employees of respondent No.5-Society are not entitled for ACP *sans* merit, as the petitioner himself has been granted 1st ACP on completion of 10 years of service w.e.f. 04.03.2014, which has not been denied.

6. In view of the aforementioned facts and circumstances, the instant writ petition is devoid of merit and consequently, the same is dismissed.

May 11, 2023
Pankaj*

Whether speaking/reasoned

Whether reportable

(JAISHREE THAKUR)

JUDGE

Yes/No

Yes/No