

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

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CWP-2629-2017

Date of Decision: 25.07.2023

Kamaljit Kaur

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. R.K. Arora, Advocate and
Mr. Jugam Arora, Advocate
for the petitioner.

Mr. Vikas Arora, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant the petitioner higher salary as she was asked to perform additional work of the post of Development Officer Women Programme, at Ludhiana.

2. Learned counsel for the petitioner submits that as per the provisions of Rule 4.4(c) of the Punjab Civil Services Rules, the petitioner is entitled to receive higher pay scale i.e. initial pay and time scale of the higher post for the period she has worked on the higher post. The respondents have denied the said benefit. It is submitted that the petitioner retired from the higher post and she, therefore, claims that the benefit should be given for the entire period.

3. Per contra, learned State counsel points out that the petitioner

worked for interregnum period by giving her an additional charge on the post of Development Officer Women Programme, Ludhiana and it cannot be said that the petitioner continued to perform till she retired.

4. I have heard learned counsel for the parties at length and have considered the submissions.

5. This Court finds that the petitioner was granted the charge of Development Officer Women Programme, Ludhiana, vide order dated 17.08.2007 with powers of Drawing and Disbursing Officer in addition to her own duties. Her original post held was Mukh-Sewika. The pay scale of Development Officer Women Programme, Ludhiana is admittedly higher than that of Mukh-Sewika.

6. Rule 4.4(c) of the Punjab Civil Services Rules provide as under:-

“(c) (i) Notwithstanding anything contained in these rules, where a Government employee holding a post in a temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above his pay drawn by him in the lower post provided it is certified by the Head of the Department in which the Government employee was holding the lower post that he would have continued to officiate in the lower post but for his promotion/appointment to the higher post:

Provided that if a Government employee either – (a) has previously held substantively or officiated in – (i) the same post, or (ii) a permanent or temporary post on the same time-scale, or (iii) a permanent post other than a tenure post, or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time-scale ; or (b) is appointed substantively to a tenure post on a time-scale identical with that of another tenure

post which he has previously held substantively or in which he has previously officiated ; then proviso to rule 4.4 (b) shall apply in the matter of the initial fixation of pay and counting of previous service for increment. (ii) The provisions of sub-rule 2 of rule 4.14 shall also be applicable in any case where the initial pay is fixed under this clause. In cases, where a Government employee is, immediately before his promotion or appointment to a higher post, drawing pay at the maximum of the time scale of the lower post, his initial pay in the time scale of the higher post shall be fixed in the same manner as provided in sub-clause (1) above.”

7. Once an employee is directed to discharge duties on a higher post in view of the aforesaid provision, he/she would be entitled to draw the time pay scale of the higher post in a manner as directed by the aforesaid Rule i.e. her initial pay in the time pay scale of the higher post shall be fixed at the stage above her pay drawn by her in the lower post. The petitioner was holding substantive post of Mukh-Sewika. Thus, as per the aforesaid Rule, she was entitled to refixation of pay upon being handed over the charge of Drawing and Disbursing Officer with the post of Development Officer Women Programme. The pay scale of Development Officer Women Programme is 10,300-34,800 plus 4400/- grade pay.

8. A similar view has been taken by this Court in the case of ***State of Punjab and others Vs. Jagjit Singh and others, 2018(4) SCT 549***. In the case of ***Commission and Secretary, Government of Haryana and others Vs. S.K. Bagga, in Civil Appeal No.725 of 2001, decided on 29.07.2003***, Hon’ble Supreme Court held as under:-

“Undisputedly, the respondent S.K. Bagga who was posted as DDVEO, Ambala City was transferred to the post of Principal, ITI, Ambala City. There is no dispute about the fact that he was appointed as Principal and started discharging his duties in pursuance of the aforesaid order dated August 07, 1999. He

eventually retired while working as Principal on 13.04.1993. He raised a claim for salary of the post of Principal, ITI, Ambala City which does not seem to have been acceded to by the appellant. Ultimately, the respondent had to file a Civil Suit and his claim was decreed. The present appeal is against the orders passed by the High Court affirming the decree of the Courts below. The learned counsel for the appellant has drawn out attention to the supplementary affidavit filed on their behalf more particularly to paragraphs 5 and 6 of the said affidavit. On the basis, it is submitted that the respondent was discharging his duties as Principal in addition to his duties as Deputy District Vocational Education Officer (DDVEO). It is indicated that an order to that effect was passed on 13.11.1991. The copy of the said order is not placed on record. However, it was being made to clear that he was required to look after the duties of the post of DDVEO in addition to his duties as Principal, ITI, Ambala City. It was not vis-a-vis as sought to be shown. That being the position we hardly find any good reason to interfere in the matter. The appeal lacks merit and it is, therefore, dismissed.”

9. Keeping in view the aforesaid findings and the conclusion drawn by the Hon’ble Supreme Court as cited above, the claim of the petitioner deserves to be allowed.

10. In view thereof, the present petition is allowed. The petitioner would be entitled for the arrears accordingly. The compliance be made within a period of three months from today.

25.07.2023

D.Bansal

**(SANJEEV PRAKASH SHARMA)
JUDGE**

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