

CWP-19968-2020 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109-1) CWP-19968-2020 (O&M)
Date of decision:- 18.04.2023

Ranbir Singh ...Petitioner
Versus
State of Haryana and others ...Respondents

(109-2) CWP-145-2022 (O&M)
Jitender Kumar and another ...Petitioners
Versus
State of Haryana and others ...Respondents

(120) CWP-5906-2023
Kuldeep Singh and others ...Petitioners
Versus
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vinod Bhardwaj, Advocate
for the applicant(s)-petitioner(s) in all cases..

Mr. Pankaj Middha, Addl. A.G., Haryana.

SUVIR SEHGAL, J. (Oral)

CM-1610-CWP-2023 IN CWP-19968-2020 AND
CM-1651-CWP-2023 IN CWP-145-2022

1. For the reasons given in the applications, they are allowed.
2. Hearing of the main cases is preponed to today and they are ordered to be taken up on Board.

CWP-19968-2020 (O&M)

-2-

Main cases

1. This order shall dispose of **CWP-19968-2020** titled as ***“Ranbir Singh Versus State of Haryana and others”***, **CWP-145-2022** titled as ***“Jitender Kumar and another Versus State of Haryana and others”*** and **CWP-5906-2023** titled as ***“Kuldeep Singh and others Versus State of Haryana and others”*** as they involve common questions of law and fact.

For the sake of convenience, facts are being taken from CWP-19968-2020.

2. Instant writ petition has been filed inter alia seeking issuance of a writ in the nature of certiorari for quashing order dated 21.04.2020, Annexure P-18, passed by respondent No.3, whereby claim of the petitioner for grant of higher pay scale of Rs.1200-2040 has been rejected.

3. Brief facts may be noticed. Petitioner is a Post Graduate, possesses M.A. degree in Political Science and has a ITI Certificate in the trade of Moulder. He was engaged as a Pump Operator on 04.10.1991, Annexure P-1, on daily wage basis against a sanctioned post. Government of Haryana issued instructions dated 07.03.1996, which were modified on 18.03.1996 for regularization of services of daily wagers and casual labour, who had worked for the period specified therein. By notification dated 26.07.1991, Annexure P-2, Government of Haryana modified the pay scale of technical posts to Rs.1200-2040 and recommended the grant of these scales to the holders of technical posts for which minimum educational qualification of Matric with ITI Certificate had been prescribed. Petitioner's case was considered for regularization to the post of Pump Operator-II, but as he did not possess the requisite ITI Certificate, his case was rejected vide letter dated 16.12.1996, Annexure P-4. By office order dated 24.04.1997, Annexure P-5, his service was regularized on Group-D post w.e.f. 01.02.1996 in view of the Government

instructions. He approached this Court by filing a writ petition, which was disposed of by judgment dated 02.12.2015, Annexure P-6, and he was held entitled to be regularized on the post of Water Pump Operator w.e.f. the date of entitlement. This judgment has attained finality. Vide order dated 03.11.2017, Annexure P-9, petitioner was regularized as Water Pump Operator-II, a Group-C post w.e.f. 01.02.1996 in the pay scale of Rs.950-1400. Claiming that he was entitled to the pay scale of Rs.1200-2040, he submitted representation, Annexure P-11, and filed a writ petition before this Court, which was disposed of vide order dated 06.01.2020, Annexure P-16, with liberty to approach the respondents with a fresh representation. Another representation dated 24.01.2020, Annexure P-17, was submitted by the petitioner, which was rejected vide order, Annexure P-18, which has been impugned herein.

4. Upon notice, writ petition has been contested by the respondents by filing a response, wherein it has been submitted that the petitioner does not possess the requisite qualification for the post of Water Pump Operator and after the enactment of Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014 (for brevity “the Act of 2014”), petitioner is not entitled to the technical pay scale.

5. By placing reliance upon judgments dated 01.07.2003, Annexure P-13, against which SLP has been dismissed on 16.01.2006, Annexure P-14, as well as judgment dated 22.04.2015, Annexure P-15, counsel for the petitioner contends that similarly placed persons have been granted higher pay scales, whereas the petitioner has been discriminated against. He submits that once the benefit of technical pay scale has been granted by the Government vide instructions dated 26.07.1991, Annexure P-2, and the petitioner stood regularized retrospectively from 01.02.1996, he could not be denied the benefit

CWP-19968-2020 (O&M)

-4-

of a higher pay scale.

6. State counsel has supported the impugned order and has opposed the prayer made in the petition on the basis of stand taken in the written statement.

7. Counsel for the parties have been heard and their submissions have been considered.

8. After the coming into force of the Act of 2014, there has been a sea change in the situation. This Act has been notified to remove anomaly in the pay scales of technical and non-technical posts. Sections 3 and 4 of the Act of 2014, which are relevant, are reproduced as under:-

“3. Notwithstanding anything contrary contained in any service rules, instructions etc. all persons serving on various posts in different services under the State shall be entitled to get the pay scales prescribed for those posts only under the relevant service rules, notifications and instructions issued from time to time and no person who is serving or has served on any post in any service under the State shall be entitled to a higher pay scale on account of possessing a technical qualification, or on account of serving or having served on a post for which the prescribed qualification is/was of technical nature i.e. Matric with ITI/Polytechnic or Non-Matric with ITI/Polytechnic.

4. The entry at serial number 3 under ‘common category posts’ in the annexure to instructions bearing No.1/54/2PR(FD)-82, dated 30.03.1982, at serial number 40 in annexure A to instructions bearing No. 6/23/3PR(FD)-88, dated 23.08.1990, No. 6/23/3PR(FD)-88, dated 26.07.1991 and No.6/83/2009-3PR(FD), dated 09.08.2010 are hereby withdrawn and shall be deemed to have been withdrawn with effect from the date of their coming into force:

Provided that all those persons who had already been granted unconditionally the up-graded pre-revised pay scale and drawing the same before date of notification of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-technical Posts) Ordinance, 2013 (Haryana Ordinance No.6 of 2013), viz the 10th December, 2013, shall continue to draw these pay scales, as a measure personal to them.”

9. Perusal of the above reproduced statutory provisions shows that various instructions issued by the Government over the period of time, including instructions, Annexure P-2, have been withdrawn with effect from the date they came into force. By virtue of proviso to Section 4 of the Act of 2014, protection of pay scale has been extended to employees, who have been granted the benefit of technical pay scale prior to the coming into force of the Ordinance. It has been laid down that such employees shall continue to draw technical pay scale as a personal measure. Therefore, the reliance placed by the counsel for the petitioner upon the pay scales drawn by similarly placed employees will not be of any help to him.

In so far as the judgment rendered by this Court on 01.07.2003, Annexure P-13, is concerned, suffice is to say that it had been delivered prior to the coming into force of the Act of 2014. Judgment dated 22.04.2015, Annexure P-15, would not come to the aid of the petitioner as the provisions of the Act of 2014 were not brought to the notice of Writ Court.

10. In view of the above discussion, this Court is of view that there is no merit in the writ petitions, which are hereby dismissed.

(SUVIR SEHGAL)
JUDGE

18.04.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No