

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-28134-2017

Reserved on 28.11.2023

Decided on 16.12.2023

Naresh Kumar Kaushik

... Petitioner

VS.

Haryana Power Generation Power Corp.Ltd. & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Panghal, Advocate for the petitioner

Mr. RS Budhwar, Advocate for the respondents

Sandeep Moudgil, J.

(1). The petitioner has filed the present writ petition invoking Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of *certiorari* for quashing of order dated 27.09.2017 (Annexure P7) by which the respondents have declined to grant pay scale to the petitioner for the work rendered by him in the office of higher post of Head Store Keeper in the pay scale of Rs.9300-34800 with Grade Pay of Rs.3200/- from 01.10.2010 to 28.12.2016.

(2). Learned counsel for the petitioner submits that the petitioner joined the service in the respondent-Corporation on 16.02.2009 in the pay band of Rs.5200-20200 with GP of Rs.2400/- and was drawing the basic pay of Rs.7740+2400 = Rs.10140/- on the post of Plant Attendant and was given the charge of Head Store Keeper in "General and Electrical Store".

(3). It is urged that though the petitioner was reluctant, however, he was forced to work as such on the higher post of Head Store Keeper and was warned that he might be held liable for disciplinary action and disobedience.

He submits that the petitioner accepted the higher responsibility and as such

made various representations (Annexures P1 to P7) to the authorities to grant him higher pay scale. However, the requests of the petitioner were declined vide order dated 27.09.2016 (Annexure P7) wherein the District Level Grievance Committee formed under the Chairmanship of the Chief Manager observed that since it was only a temporary adjustment as a stop gap arrangement keeping in view the urgency of work and shortage of staff of store, therefore, no claim of higher pay scale from 01.10.2010 to 28.12.2016 is justified.

(4). The argument raised on behalf of the petitioner is that as per the principle of 'equal pay for equal work', the petitioner is entitled to the higher pay scale since the petitioner has rendered the higher responsibility of the same pay scale. Reliance has been placed on *P.Grover vs. State of Haryana 1983 AIR SC 1060* and *Arindam Chattopadhey & Ors. Vs. State of West Bengal & Ors. (2013) 4 SCC 152* as well as the decision of this Court rendered in similar situation in case of *Gurmej Singh vs. State of Punjab 1995(3) RSJ 491*.

(5). Notice of motion was issued on 12.12.2017 and thereafter, the respondents have filed their written statement dated 03.07.2018 through AK Miglani, Administrative Officer, PTPS, HPGCL, Panipat.

(6). Learned counsel for the respondents, on the basis of the averments made in the written statement submits that the petitioner was given charge of Sub-Store of General & Electricals as a time gap arrangement keeping in view the urgency of work and shortage of staff vide office order dated 12.04.2010 (Annexure P1). He further averred that the petitioner was working in one of the 7 Sub-Store i.e. General & Electrical Store, as

mentioned in the written statement, and was thereafter relieved from the Store Division on 03.01.2017 vide order dated 02.03.2016 (Annexure R1) after handing over the charge of General & Electrical (Sub Store) to Smt. Santosh Kumari, Asstt. Store Keeper on her promotion from the post of Store Munshi to Asstt. Store Keeper.

(7). Mr. RS Budhwar, Advocate for the respondents vehemently urged that no representation was received from the petitioner during the period from 12.04.2010 to 30.08.2015 i.e. a gap period of more than 5 years and no sooner the representation was made by the petitioner on 31.08.2015, the authorities immediately transferred him from the office of XEN/Store, PTPS, HPGCL, Panipat to the office of SE/O&M-V, PTPS, HPGCL, Panipat and as such, the petitioner stood transferred on 02.03.2016 and during the period of stop gap arrangement, no extra burden was put on the petitioner.

(8). Heard learned counsel for the parties and gone through the record.

(9). Admittedly, the petitioner was given the charge of Sub-Store of General & Electricals as a time gap arrangement keeping in view the urgency of work & shortage of staff. It is case of the respondents that the post of Sub-Store is being looked after independently by the Asstt. Store Keeper in same pay scale of Plant Attendant-II. In fact, the representations of the petitioner were duly considered by the Committee under the Chairmanship of Chief Manager, at length, and it was found that the petitioner along with 3 other officials were adjusted as a time gap arrangement keeping in view the urgency of work and shortage of staff i.e. Head Store Keeper/Store Keeper/Asstt. Store Keeper. The Committee further found that the references of court

cases/instructions by Govt. of Haryana regarding allowing the said benefits mentioned by the petitioner in his representation were found to be not applicable in the case of the petitioner and also the pay scales of Asstt. Store Keeper and Plant Attendant-II are same.

(10). Reliance placed on Gurmej Singh's case, and P.Grover's case are totally distinguishable as those were the cases where the writ petitioner were either given current duty charge until his retirement or that the writ petitioner was given promotion on acting basis, entitling them to claim salary/allowances for the higher post. In the present case, the petitioner was given the charge of Head Store Keeper on 12.11.2010, as an 'adjustment', keeping in view the urgency of work and shortage of staff as a time gap arrangement until he was replaced w.e.f. 02.03.2016 by Santosh Kumari, Asstt. Store Keeper on her promotion.

(11). The contention of the petitioner that he would be eligible for pay scale for higher post, will not stand as the same is ordinarily payable in a situation where a Government servant is placed in additional charge of an equivalent post or a higher post without any element of promotion. Such arrangements are envisaged only for short periods as stop gap arrangements for avoiding any interruption of work.

(12). It is trite that when a person is employed on a stop gap or temporary arrangement basis, he will be entitled to the benefits of pay scales with increments during the period of service on daily or stop gap or *ad hoc* basis, only, if he is able to establish that either in the contract or applicable rules, or settled principles of service jurisprudence, he is entitled to the benefits of pay-scales with increments during the period of stop gap

arrangements etc. The petitioner has failed to press into aid any such rule/instructions which provides for grant of pay scale to higher post in case of stop gap arrangement. This view of mine is reinforced by the view taken by the Apex Court in **Surendra Nath Pandey and Ors. Vs. Uttar Pradesh Cooperative Bank Limited and Anr., (2010)12 SCC 400.**

(13). It is not the case of the petitioner that he was promoted to the post of Head Store Keeper, or appointed on officiating basis, to that post by the Appointing Authority and had the right to the higher pay scale on the basis of his promotion, either on *ad hoc* or regular or officiating basis. Nor did the stop gap order declaring or conferring him with the position of Head Store Keeper was made by the appointing authority. The petitioner is seeking this benefit only on the strength of discharging the duties as Head Store Keeper, although his substantive capacity was that of Plant Assistant.

(14). Taking into the account the totality of facts and circumstances of the case and taking note of the fact that the petitioner has already retired from the post of Plant Assistant and was given charge as Head Store Keeper, only as a stop gap arrangement, this Court is of the considered view that the petitioner would not be entitled to any pay and allowances of the post of Head Store Keeping for the period from 01.10.2010 to 28.12.2016 held by him on stop gap arrangement.

(15). Dismissed.

16.12.2023

V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No