

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CWP-314-2018

Date of decision:21.02.2023

Kaptan Singh and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sandeep Panwar, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL J.

Petitioners have approached this Court under Article 226/227 of Constitution of India for issuance of a writ in the nature of certiorari for quashing order dated 02.08.2010, Annexure P-3, qua petitioner No.2 and orders dated 18.11.2010, Annexures P-6 to P-8, qua petitioners No.1 to 3 to the extent, arrears of pay and allowances have been denied to them. Another prayer has been made for directing the respondents to grant the arrears of salary to the petitioners from the date of their respective promotions as Clerk.

Facts lie in a narrow compass. All the three petitioners, who were working on different posts, were regularized in service with effect from 01.01.1987 and were promoted to the post of Clerk on 20.08.2014. Claiming that their junior had been promoted by ignoring them, they served a legal notice and filed a writ petition before this Court. By order

dated 12.09.2017, Annexure P-4, passed in CWP-20579-2017, this Court directed the respondent authorities to take a decision on the legal notice and to pass a speaking order. By virtue of impugned orders, petitioners were granted deemed date of promotion as Clerk with effect from 08.11.2010 and as Sub Divisional Clerk with effect from 25.06.2014, however, they were denied the arrears of pay and allowances. Aggrieved, the petitioners are before this Court.

I have heard counsel for the parties and examined the documents appended with the paper book with their able assistance.

There is no dispute about the fact that the petitioners had not worked on the promotional post when they were granted deemed promotion. In such circumstances, the petitioners cannot legitimately claim the benefits of the duties of a post, which they have not discharged. They cannot be paid for the work they have not done. Applying the principle of “no work no pay”, Hon'ble Supreme Court in

Union of India Versus B.M. Jha 2007 (11) SCC 632, held as under:-

*“5. We have heard learned counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent normally he is entitled to all benefits flowing therefrom. However, this Court in the case of **State of Haryana and others v. D. P. Gupta and others, (1996) 7 SCC 533** and followed in the case of **A. K Soumini v. State Bank of Travancore, 2003 (8) JT (SC) 35** has taken the view that even in case of a notional promotion from retrospective date, it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of no work no pay. The learned Division Bench in the impugned judgment has placed reliance on the case of **State of Andhra Pradesh v. K. V. L. Narasimha Rao and Ors., 1999 (3) JT (SC) 205**. In our view, the High Court did not examine*

that case in detail. In fact, in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. Therefore, we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of no work no pay in case of retrospective promotion. Consequently, we allow this appeal and set aside the impugned order of the High Court dated 17-5-2000 passed by the Division Bench of the High Court as also the order dated 11-1-2000 passed by the Central Administrative Tribunal, Principal Bench. ”

In view of the above, the prayer made in the petition cannot be accepted.

Petition is dismissed.

21.02.2023
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(SUVIR SEHGAL)
JUDGE

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