

CWP-3794-2018

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP-3794-2018

Date of decision:- 04.05.2023

Vijay Singh

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vivek Singla, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

1. By way of present petition, petitioner has approached this Court invoking Article 226 of the Constitution of India *inter-alia* for issuance of a writ in the nature of certiorari for quashing the cut-off date of 09.04.2006 as specified in impugned order dated 29.06.2015, Annexure P-2, for granting the technical pay scale to the petitioner. A direction has been sought to the respondents to grant the technical pay scale of Rs.1200-2040 to the petitioner notionally w.e.f. 01.05.1990 in terms of notification dated 09.08.2010, Annexure P-1.

2. Petitioner, who is under Matric and possesses an I.T.I. Diploma in Motor Mechanic Trade, joined as Helper Welder on 15.03.1985. He was promoted as Assistant Welder and as Welder in the years 2003 and 2014, respectively. He was holding a technical post at the time of his initial

appointment. By notification dated 09.08.2010, Annexure P-1, Government of Haryana decided to grant technical pay scale of Rs.1200-2040 notionally w.e.f. 01.05.1990 to employees holding technical posts, who were Non Matric, but possessed an I.T.I. Diploma and the actual benefits were to flow from August, 2010. Claiming benefit of the notification, petitioner and his counterparts approached this Court and vide order dated 18.01.2010, their writ petition was disposed of with a direction to respondent No.3 to decide the representation. By impugned order, Annexure P-2, petitioner has been granted the technical pay scale w.e.f. 09.04.2006. Aggrieved there against, petitioner has again approached this Court.

3. Upon notice, writ petition has been contested by the respondents by filing a written statement.

4. Counsel for the petitioner has placed reliance upon judgment passed by this Court in **CWP-18754-1991** titled as **Gurdev Singh and others Versus State of Haryana and others**, decided on 18.01.2010, to contend that the petitioner is similarly placed and is entitled to the benefit flowing from the notification, Annexure P-1, which have been illegally denied from inception.

5. *Per contra*, learned State counsel has supported the impugned order and has argued that the notification, Annexure P-1, has been withdrawn by the Government and petitioner cannot claim any benefit thereunder.

6. I have heard counsel for the parties and considered their respective submissions.

7. Government of Haryana promulgated the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014 (for brevity “the Act of 2014”), to remove the disparity in the pay scale of

the holders of technical and non-technical posts. Sections 3 and 4 of the Act of 2014, which are relevant, deserve to be noticed and 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.”

8. Perusal of the above reproduced statutory provisions shows that various instructions issued by the Government over a period of time, including instructions, Annexure P-2, have been withdrawn with effect from the date they came into force. It is apparent that the Government has taken a policy decision not to extend the technical pay scale to any employee. However, 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 measure personal to them. Therefore, the reliance placed by the counsel for the petitioner upon the pay scales drawn by similarly placed employees will not advance his case. In so far as the judgment rendered by this Court is concerned, suffice it to say that it had been delivered prior to the coming into force of the Act of 2014.

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

(SUVIR SEHGAL)
JUDGE

04.05.2023
Kamal

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