

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17999-2015 (O&M)
Reserved on: 13.04.2023
Date of decision: 17.08.2023

GAURAV VERMA

..Petitioner

Versus

STATE OF PUNJAB & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Simranjeet Singh, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab.

ANIL KSHETARPAL, J.

1. While filing the writ petition, the petitioner prays for the following reliefs:-

ii. Issue a writ or direction especially in the nature of certiorari for quashing of Annexure P-4 dated 23/02/2015 whereby the post of the petitioner was mentioned as data entry operator instead of computer assistant. It may be noted here that according to the revised pay scale, the post of computer assistant has a higher salary than data entry operator;

iii. Issue a writ or direction especially in the nature of mandamus directing the respondents to extend the contract of the petitioner according to the original appointment letter issued to the petitioner in which the post of the petitioner has been mentioned as computer assistant;

2. In the substance, the dispute is with regard to the entitlement of the petitioner to the post of computer assistant. He has been appointed on contractual basis under Mahatma Gandhi National Rural Employment Guarantee Act Scheme (MGNREGA). It has been projected that in the beginning, the job profile and salary of computer assistant and data entry

operator was same so at the time of renewal of contract, the term data entry

operators and computer assistants were used interchangeably as it had no bearing on the salary and job profile. However, on 02.01.2015, the State headquarter issued instructions regarding new salaries for each post of employees. The post of computer assistant was held entitled to the salary of Rs.11,000/- per month, whereas, data entry operator was held entitled to Rs.8,000/- per month. Vide communication dated 23.02.2015, the post of the petitioner was specified as data entry operator, which compelled him to file the writ petition.

3. On 28.08.2015, the Court passed the following order-

“The petitioner was appointed as a Computer Assistant in 2009 under NREGA Scheme on contract basis on a fixed salary of Rs.6,000/-. The anomaly found in the pay structure of the staff working at MGNREGA and different salaries in different districts in Punjab and therefore the order dated 2.1.2015(Annexure P-3) was issued to bring about uniformity in the pay scales in all districts. A computer Assistant became entitled to Rs.11000/- while a Data Operator was granted Rs.8000/- per month. However on 23.2.2015, the case of extension in the services of employees at MGNREGA was resolved and the petitioner's name was shown in the order issued by the office of the Additional District Commissioner (Vikas)-cum-Additional District Programm Coordinator MGNREGA, Ludhiana, as a Data Entry Operator which reduced his salary from Rs.11000/- to Rs.8000/- and this, it is contended amounts to varying the contract unilaterally which cannot be done because contractual service is based on ad idem agreement. Learned counsel for the petitioner submits that after April, 2015 salary is not being disbursed to the petitioner since he is not willing to accept the post of Data Entry Operator which would reduce pay and it is not the case that the post of Computer Assistant has been abolished.

Notice of motion returnable by 19.11.2015.

Notice re: interim directions as well.

In the meantime, the service of the petitioner on contract basis would not be dispensed with and salary to the petitioner be disbursed w.e.f. April, 2015 @ Rs.11,000/- in terms of old contract and the same will be continued to be paid every month till further orders.”

4. Pursuant thereto, the petitioner is being paid salary for the post of computer assistant with effect from 01.04.2015. Now, the dispute is only

with respect to the salary with regard to the period from January to April.

5. On the one hand, the learned counsel representing the petitioner contends that the petitioner is entitled to the salary at the rate of Rs.11,000/- per month, whereas, on the other hand, the learned counsel representing the respondent submits that the petitioner has now improved his qualification and, thereafter, he has been posted as computer assistant and is being accordingly paid.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. It is the positive case of the respondent that the petitioner vide his request letter dated 20.07.2016, informed the office that he has completed requisite qualification.

8. Keeping in view the aforesaid facts, this Court does not find it appropriate to issue writ for recovery of the salary with respect to the period prior to the period when the petitioner was not possessing requisite qualification. However, this Court does not find any reason to deny the salary of computer assistant with respect to the period when the petitioner acquired the qualification of computer assistant.

9. Keeping in view the aforesaid discussion, the writ petition is disposed of while directing the respondents to release the salary of computer assistant to the petitioner from the date he acquired the requisite qualification.

10. All the pending miscellaneous applications, if any, are also disposed of.

17th August, 2023

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No