



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-485-2020 (O&M)**Date of decision: 13.05.2024****Shiv Kumar****...Petitioners****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. Sushil Bhardwaj, Advocate, for the petitioner.
Mr. Swapan Shorey, DAG, Punjab

AMAN CHAUDHARY J.

1. The prayer in the present Civil Writ Petitions filed under Article 226/227 of the Constitution of India, is to issue a writ in the nature of certiorari for quashing of the order dated 08.11.2019, Annexure P-18 and further directing the respondents to refund the amount recovered pursuant to the order dated 25.02.2019, Annexure P-13 and notice dated 02.04.2019, Annexure P-15.

2. Learned counsel for the petitioners would submit that the petitioner was initially appointed as Beldar in the department of Punjab Roadways on 05.01.1979, whereafter he was promoted to the post of Assistant Welder in the year 1981 and thereafter to the post of Technician Grade-II on 13.01.2010 and Technician Grade-I on 30.01.2013 and retired on attaining the age of superannuation on 31.12.2018, Annexure P-8. However, by way of order dated 25.02.2019, Annexure P-13, the promotion of the petitioner as TG-2 that was only by re-designation/conversion that his designation was taken to be as TG-2 not not promotion and as such the one increment which was granted to him was ordered to be withdrawn. He further submits that even otherwise also the case of the petitioner is squarely covered by a judgment passed in CWP-13834 of 2013, titled **Sarbjit Singh vs. State of Punjab and others**, decided on 17.11.2016 regarding the employees of the same department from whom recovery was being effected a year before he was to retire. The relevant

“Petitioner who was working as Technical Grade-III with the respondent-Department was promoted by an order endorsed on 24.09.1997 (Annexure P-1) by the General Manager, Punjab Roadways, Hoshiarpur vide which he was promoted as Technical Grade-II (Mechanic) w.e.f. 30.05.1997. It comes out that an increment on account of promotion was granted to him and pay was accordingly fixed. He continued to receive the enhanced salary and subsequently a show cause notice (Annexure P-2) was issued on 06.09.1999 to intimate the petitioner that he has been designated Technical Grade 2/3 at revised pay scale, whereas the word “promotion” has been written for which he has been granted special increment on account of promotion, whereas he has not been promoted and have been redesignated only. The reply of the petitioner to send show cause notice was sought within 15 days. The petitioner submitted reply (Annexure P-3) on 20.09.1999. The matter rested there and no further action was taken till 11.06.2010 when order (Annexure P-6) was issued vide which the said promotion increment was withdrawn stating that from Technical Grade-III (Mechanic) to Technical Grade-II (Mechanic) was not a promotion as it was only a redesignation and accordingly recovery order dated 22.06.2010 (Annexure P-7) was passed and a recovery of about Rs.75,000/- was made from amount of the Leave Encashment of the petitioner who was to retire on 30.06.2010. Petitioner impugned the said orders.”

3. Learned State counsel despite his best efforts has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
4. In view of the aforesaid, the present case is disposed of in terms of the judgment passed in **Sarbjit Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

13.05.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No