



CWP-10768-1999 (O&M)

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

206

CWP-10768-1999 (O&M)
Date of Decision: 24.07.2024

Pawan Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Ravi Verma, Advocate for the petitioner

Mr. Rohit Arya, Deputy Advocate General, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 11.03.1997, Annexure P-3, passed by the third respondent whereby the petitioner's claim for grant of selection grade with effect from 01.03.1972, the date from which it was given to his junior, has been rejected.

2. Facts of the case in brief are, the petitioner was initially appointed as Sanskrit Teacher on regular basis through Subordinate Services Selection Board, Punjab, with effect from 12.11.1964, and was posted in Government High School, Shera, District Karnal. At the time of re-organisation of the districts, many villages of the district Karnal were brought under administrative control of the neighbouring district. Accordingly, the petitioner's services were

transferred to district Jind, and he was relieved vide office order dated



13.07.1973, Annexure P-1, with a direction to report to District Education Officer, Jind, for getting station. Pursuant thereto, on being relieved from district Karnal, he joined his duties in Government High School, Bahri, Jind on 16.07.1973. Thus, the petitioner served in Karnal from the date of joining till 13.07.1973.

2.1. Pursuant to the directions issued by this Court, the respondents vide office order dated 08.11.1995, Annexure P-2, awarded selection grade of pay to teachers from the revised date on the basis of total posts in district Karnal. One of the petitioner's junior, Jasi (Jai) Narain, C&V teacher, who joined the Department on 07.01.1965, was also given the selection grade with effect from 01.03.1972. Since the petitioner was working as Sanskrit teacher in Karnal as on 01.03.1972, the date from which his junior was given selection grade of pay, he also sought the same grade by submitting a representation. The claim was rejected, vide impugned order dated 11.03.1997, on the ground that seniority of C&V teachers was within the district, and since the petitioner had gone to district Jind after losing seniority, he would not be entitled to selection grade of pay.

3. Learned counsel for the petitioner has contended that the petitioner becomes entitled to grant of selection grade with effect from the date it was granted to his junior, since the former was working in district Karnal at that time. He further contends that he was not transferred to district Jind on his request, nor did the relieving order, dated 13.07.1973, stipulate that he would not be entitled to travelling allowance/dearness allowance (T.A./D.A.) on account of the transfer, or that he would lose seniority on transfer from the district. Therefore, there was no basis to deny the claim.



4. *Per contra*, learned State counsel, contends that C&V/Sanskrit teacher is a district cadre post, and the seniority is within the district. Therefore, there is no basis for the petitioner's claim for selection grade on the ground that it has been given to another employee in district Karnal, who has separate seniority within that district, and no benefit can be claimed on the basis of old seniority. Besides, he also contends that the petitioner's transfer to Jind had been on his request, and no person junior to him was given the selection grade there. Since he was transferred on his own request, no TA/DA was claimed by him. As per Government instructions dated 02.07.1970, on transfer outside the district, a teacher will be treated as a fresh appointee in another district, and would lose seniority of his previous district.

5. Heard.

6. It is not in dispute that the petitioner was appointed as Sanskrit teacher in district Karnal with effect from 12.11.1964. He was thereafter relieved vide letter dated 13.07.1973, to report for duty to District Education Officer, Jind. The order reads as under:

As per order No.E-II/73(ID)-SPL-3/Transfer dated 9.7.73 of the Sub Divisional Education Officer, Panipat, you are relieved today in the forenoon and you are hereby directed to report for duty to District Education Officer, Jind for getting station. You should hand over the charge of the school within one week.

Pursuant thereto, he joined duties in a school at district Jind. It is also not in dispute that one of the petitioner's junior, Jai Narain, had been given selection grade of pay with effect from 01.03.1972, vide office order dated 08.11.1995, and the petitioner was serving in district Karnal up to 13.07.1973.



7. The respondents have denied the benefit of selection grade of pay to the petitioner from the date it was given to his junior in Karnal, on the ground that the former had been transferred to district Jind on his own request. The C&V/Sanskrit teacher being a district cadre post, the petitioner could not have been given senior scale of pay on the basis of seniority in district Karnal, where he was not serving on the date of passing of office order dated 08.11.1995. The reasoning is fallacious, and cannot be accepted. There is nothing on record that the petitioner made any request for transfer to district Jind. Although the respondents have taken this plea in the written statement, but failed to produce on record any such request on the petitioner's part. Their reliance upon non-payment of TA/DA to the petitioner is not sufficient to conclusively establish that he was transferred to Jind only on request, especially because the relieving order, dated 13.07.1973, does not incorporate any such condition. Further, this assertion by the respondents is contrary to the facts recorded in the impugned order, dated 11.03.1997, itself that '*...In the year 1973, options were called from such schools which were transferred from Karnal to District Jind in the process of reor-ganization of districts. The employee has been working in Government High School, Shera, at that time. Govt. High School, Shera has not gone into District Jind and has not come in District Jind to District Karnal. The options had been called only from 20 schools which have gone to District Jind from District Karnal. Therefore, the em-ployee has not gone by giving option. But the employee has gone to District Jind after trans-fer. Therefore, he has gone to District Jind after loosing his seniority. Therefore, the employee is not entitled to any selection grade...'*'. It is clearly recorded in the order that the petitioner had not gone to district Jind by giving option. Therefore, the



respondents' stand in the written statement being contrary to the impugned order passed by them, cannot be believed; rather, it stands established on record that there was re-organisation of districts. Accordingly, some of the villages were transferred to, and brought under control of District Education Officer, Jind.

8. Be that as it may, the fact remains that the petitioner was in service as Sanskrit teacher in district Karnal as on 01.03.1972, the date from which benefit of selection grade of pay was given to his junior vide office order dated 08.11.1995. Even if he has gone to or has been transferred to another district, Jind, with effect from 13.07.1973, and his seniority is to be determined in the cadre of Sanskrit/C&V teachers there, it cannot take away his right to get service benefits/selection grade of pay from the date it was given to his junior in district Karnal. Since on that date the petitioner was serving in district Karnal, and became entitled to the benefit on the strength of being senior to Jai Narain, who was given the benefit with effect from 01.03.1972. Also, the petitioner being in a different district on the date of passing of order, dated 08.11.1995, cannot take away his right to get the claimed benefit. This right crystalised in him on 01.03.1972, when he was working in district Karnal, and cannot be taken away by his subsequent transfer.

9. In view thereof, the petition is allowed, the impugned order, dated 11.03.1997, is set aside, and the respondents are directed to give the selection grade of pay to the petitioner with effect from 01.03.1972, with all consequential benefits. Arrears of salary to be paid to the petitioner shall carry interest at the rate of seven per cent per annum from the due date to the date of



actual payment. The entire exercise is to be carried out within four weeks of receiving a certified copy of this order.

10. Pending application(s), if any, also stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

24.07.2024
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>