



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101)

CWP No. 1250 of 1998 (O&M)
Date of Decision : 23.10.2024

Sham Lal Bansal

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.D. Bawa, Advocate with
Mr. Randhir, Bawa, Advocate and
Mr. Rishabh Rana, Advocate for the petitioner.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the eligibility for the grant of Proficiency Step-up of the petitioner has been delayed by a period of five years and has been shifted from 24.10.1990 to 06.05.1995 vide order dated 04.11.1997 (Annexure P-3) and the same is arbitrary and illegal and is rather contrary to the clarification, which has been issued by the Government, as reproduced by the petitioner in paragraph-3 of the present writ petition.
2. Learned counsel for the petitioner argues that as per the clarification, any increase in the pay on account of the revision of the pay scale, will not amount to the grant of any financial benefit, hence, the Instructions have wrongly been interpreted by the respondents so as to delay the grant of Proficiency Step-up by a period of five years.



3. Upon notice of motion, the respondents have filed the reply, wherein, they have stated that the interpretation which is being given to the Instructions as mentioned in paragraph 3 of the petition by the petitioner, is incorrect. As per the respondents, in case, even on revision of pay, the basic pay of an employee is not changed keeping in view the revised pay scale and except by way of grant of increment, the benefit is to be extended whereas in case of petitioner keeping in view the revised pay scale, his basic pay has already been enhanced, hence, the eligibility for the grant of Proficiency Step-up has rightly been shifted from 24.10.1990 to 06.05.1995.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. First of all, the purpose behind grant of Proficiency Step-up is to be understood while deciding the controversy raised in the present petition. The said Proficiency Step-up is given on completion of certain period of service on the account that the employee does not stagnate on the same post in the same pay scale. In case, any employee gets a higher pay scale on any account, the same will remove the stagnation.

6. Keeping in view the said fact, upon revision of a pay scale, wherein, the basic pay of the employee has also been increased, which has resulted in enhancement of the pay, it cannot be said that the employee remains stagnated.

7. Now coming upto the present petition, where the clarification as reproduced by the petitioner in paragraph-3 of the writ petition, is being tried to be interpreted that the revision of the pay scale will not take away a right to grant the Proficiency Step-up. A bare perusal of the clarification would



show that even where by way of revision of pay, the basic pay is enhanced, the benefit of Proficiency Step-up is not to be granted. The interpretation, which is being given by the petitioner to the clarification is not correct. The respondents have rightly interpreted the said clarification to mean that even where the revision of pay has been given to an employee and his/her basic pay has been enhanced, the employee will not be entitled to the benefit of Proficiency Step-up immediately upon the revision, is the correct interpretation being given by the petitioner.

8. Qua the recovery of excess amount paid, as per the settled principle of law once, the respondents had already given certain benefits, which were being sought to be withdrawn, the same has to be withdrawn prospectively only and not to make any recovery. The law on the said issue is settled. As per the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and others Vs. Rafiq Masih (White Washer) etc.***, 2015(1) S.C.T., 195 as well as in ***Civil Appeal No.7115 of 2010*** titled as ***Thomas Daniel versus State of Kerala and others***, decided on 02.05.2022, where there is no misrepresentation on the part of the employee and the employee was given the benefit by the State itself, no recovery can be done.

9. Learned counsel appearing on behalf of the State has not been able to rebut the said contention, hence, any recovery of excess amount paid on the withdrawal of the benefit, which has already been effected or was sought to be effect, is to be treated arbitrary and illegal and contrary to the settled principle of law. In case, any recovery of excess amount has been done from the petitioner, the same be refunded back immediately within a period of eight weeks of the receipt of copy of this order and in case, no



recovery of any excess payment has been done, the same will not be done from the petitioner.

- 10. Petition is disposed of in above terms.
- 11. Pending miscellaneous application, if any, also stands disposed of.

October 23, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No