

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP No. 15178 of 1999 (O&M)
Date of Decision: 09.08.2024

Sham Sharma

.....Petitioner

Versus

District & Sessions Judge, Rupnagar

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. R.C.Sharma, Advocate for the petitioner.
Mr. Shobit Phutela, Advocate for the respondent.
Mr. Brijesh, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for issuance of a writ in the nature of *Mandamus* directing the sole respondent-learned District and Sessions Judge, Rupnagar, to pay salary to the petitioner for the post of Judgment Writer (Senior Grade) in the pay scale of Rs.6400-10640 with effect from 14.07.1997, along with arrears plus interest @ 18% per annum.

2. Learned counsel for the petitioner contends that in pursuance of the order dated 14.07.1997 (P-2), 59 posts of Judgment Writers in the pay scale of Rs.2000-3500 for the Courts of learned District/Additional District & Sessions Judges were created for the State of Punjab. The pay scale of Rs.2000-3500 was revised to Rs.6400-10640 and thereafter, w.e.f. 14.07.1997,

the petitioner was directed to discharge the duties of Judgment Writer (Senior

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Grade) in the Court of learned Additional District Judge. Further contends that petitioner had discharged the duties on higher post i.e. Judgment Writer (Senior Grade), therefore he is entitled to the pay scale of Rs. 6400-10640 attached to said post w.e.f. 14.07.1997. Again contends that petitioner submitted representation dated 01.07.1999 (P-7) to the respondent to consider his claim, but all in vain.

3. *Per contra*, learned counsel for the respondent submitted that in pursuance of the order dated 14.07.1997 (P-2), 59 posts of Judgment Writer (Senior Grade) were created for Superior Judicial Officers in the State of Punjab and out of those, 03 posts were allotted to Sessions Division, Rupnagar. Further submitted that as per above sanction order (P-2), these posts were to be filled up according to the seniority-cum-merit basis. Also submitted that there were total 04 Courts of Superior Judicial Officers in the Sessions Division, Rupnagar; but the sanction was granted only for 03 posts of Judgment Writer (Senior Grade); therefore, due to non-availability of the 04th post of Judgment Writer (Senior Grade) as well as the fact that petitioner was not having 03 years' experience in the feeder cadre, he could not be promoted as Judgment Writer (Senior Grade). Further submitted that although petitioner was promoted as Judgment Writer (Senior Grade) temporarily, but he was reverted to the post of Judgment Writer (Junior Grade) vide order dated 11.06.1999 (P6), as he had not acquired the requisite experience of 03 years on the post of Judgment Writer (Junior Grade). In other words, learned counsel for the respondent submitted that petitioner could not be promoted to the post of Judgment Writer (Senior Grade) for two reasons:

- i) He had not acquired 03 years' experience as Judgment Writer



(Junior Grade) at that time.

- ii) He was junior in the cadre and 03 persons, who were senior to him, had been promoted to the post of Judgment Writer (Senior Grade) against 03 sanctioned posts.

4. Heard learned counsel for the parties and perused the paper book.

5. Records reveal that initially, petitioner was appointed as Stenotypist in the Grade of Rs.400-600 + Rs.25 Special Pay, vide order dated 03.08.1983; thereafter, vide order dated 21.01.1997 (P-1), he was promoted temporarily as Stenographer {later on designated as Judgment Writer (Junior Grade)} and posted in the newly created Court of learned Additional District Judge-III, Rupnagar.

6. The Government of Punjab, vide Memo dated 14.07.1997 (P-2), created 59 posts of Judgment Writers for the Courts of learned District/Additional District & Sessions Judges in the State of Punjab in the pay scale of 2000-3500 (revised 6400-10640). It is noteworthy that although, there were 04 Courts of Superior Judicial Officers functioning in Sessions Division, Rupnagar at that time, but only 03 posts of Judgment Writer (Senior Grade) were allotted to this Division by the High Court. Again noteworthy that against total 03 sanctioned posts of Judgment Writer (Senior Grade), 03 senior-most Stenographers/Judgment Writer (Junior Grade) were promoted as Judgment Writer (Senior Grade) by the respondent.

7. Before proceeding further it is relevant to mention here that Para 7(ii) of Correction Slip of Chapter 18-A High Court Rules and Orders Volume-I, deals with appointment of Judgment Writer (Senior Grade) by way of promotion and which reads as under:-



7(ii). *Judgment Writer (Sr. Gr.) :*

*“Judgment Writer (Sr. Gr.) shall be appointed by promotion from amongst the Stenographers/Judgment Writers (Jr. Gr.) with **three years experience** on the basis of seniority-cum-merit.”*

8. It would also be relevant to mention here that petitioner had not completed the requisite experience of 03 years on the post of Stenographer/Judgment Writer (Junior Grade), when above 03 Stenographers/Judgment Writer (Junior Grade) were promoted as Judgment Writer (Senior Grade). However, consequent upon sanctioning of 04th post of Judgment Writer (Senior Grade), the petitioner, while working as Stenographer/Judgment Writer (Junior Grade), in the Court of learned Additional District & Sessions Judge-III, was promoted temporarily as Judgment Writer (Senior Grade) by the respondent vide order dated 26.05.1999 (P-4).

9. Also discernible that after taking into consideration the letter dated 06.05.1999, received from learned District & Sessions Judge, Gurdaspur, for relaxation of the condition of 03 years' experience for filling up the post of Judgment Writer (Senior Grade), this Court vide Memo dated 26.05.1999 (P-5), decided as under:-

“I am directed to refer to your letter No.2940/E.9. dated 6-5-1999, on the subject noted above and to say that it is not desirable to relax the condition of three years experience in the case of filling up the posts of Judgment Writer. I am, therefore, to request you to utilise the services of the senior-most Judgment Writer (Jr. Gr.)/Stenographer against the posts of Judgment Writer (Sr. Gr.) till the completion of three years experience and also to utilise the services of senior-most Steno-typists against the posts of judgment Writer (Jr. Gr.)/Stenographer till they complete



three years experience.”

10. In view of the above communication received from this Court, the petitioner was placed on the post of Judgment Writer (Junior Grade) in the pay scale 5800-9200 and not on the post of Judgment Writer (Senior Grade) in the pay scale of 6400-10640, due to the reason that he had not completed 03 years' experience as Stenographer/Judgment Writer (Junior Grade). Also noteworthy that in pursuance of the order dated 11.06.1999 (P-6), petitioner joined as such without any objection. For ready reference, the order dated 11.06.1999 (P-6) is extracted herein-below:-

**“OFFICE OF THE DISTRICT AND SESSIONS JUDGE,
RUPNAGAR**

In view of the instructions issued by the Hon'ble Punjab and Haryana High Court, Chandigarh vide letter No.273-274 Spl.E.II/VII A.23 (Pb.) dated 26.5.1999 vide which directions have been issued to utilise the services of the Senior most Judgement Writer (Sr. Grade) Stenographer against the posts of Judgement Writer (Sr. Grade) till the completion of three years experience, as such, Shri Sham Sharma, Stenographer who was working as such from 22.1.1997 after-noon and promoted as Judgement Writer (Sr. Grade) vide this Office Order dated 26.5.1999 and joined as such on 28.5.1999 after-noon, is hereby placed on the post of Judgement Writer (Jr. Grade) i.e. 5800-9200 grade 6400-10640, as he has yet not completed three years of service as Judgement Writer (Jr. Grade)/Stenographer. The official concerned be treated as Judgment Writer (Jr. Grade) against the post of Judgment Writer (Sr. Grade) in the Court of Shri Kuldip Singh, Addl. District and Sessions Judge-IV, Rupnagar, w.e.f. 28.5.1999 after-noon.

All concerned be informed accordingly.

Sd/-

DISTRICT & SESSIONS JUDGE,
Rupnagar”

A perusal of the above extract clearly reveals that petitioner was ordered to be treated as Judgment Writer (Junior Grade) against the post of

Judgment Writer (Senior Grade) in the Court of learned Additional District &

Sessions Judge-IV, Rupnagar w.e.f. 28.05.1999.

11. During the course of hearing, this Court was apprised by learned counsel for the respondent that subsequently, petitioner was promoted as Judgment Writer (Senior Grade) vide order dated 17.07.2006 and he retired as such after attaining the age of superannuation on 31.01.2012.
12. Although, learned counsel for the petitioner has relied upon the judgment of Hon’ble Supreme Court in *Selvaraj Vs. Lt. Governor of Island, Port Blair and others, (1998) 4 Supreme Court Cases 291* on the principle of ‘quantum meruit’, to contend that petitioner is entitled to salary of the higher post of Judgment Writer (Senior Grade) w.e.f. 14.07.1997 along with arrears, but the same is not helpful for the simple reason that orders 26.05.1999 (P-5) & 11.06.1999 (P-6) have already interdicted his claim.

Concededly, both the aforesaid orders i.e. 26.05.1999 (P-5) & 11.06.1999 (P-6) are not under challenge for the reasons best known to the petitioner. In such a scenario, there is no occasion to issue a mandate to the respondent to grant him pay scale of Rs.6400-10640 w.e.f. 14.07.1997, along with arrears.

13. In view of the above, there is no option, except to dismiss the petition.

Ordered accordingly.

Pending application(s), if any, shall also stand disposed off.