



CWP No. 16329 of 1999

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP No. 16329 of 1999

Date of Decision : 22.07.2024

Gopal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.V. Sharma, Senior Advocate with
Ms. Sunder Kumari, Advocate for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the petitioner joined as a Classical and Vernacular Teacher on 10.01.1972 and while working on the said post, the petitioner was selected and appointed as a Master on regular basis on 15.01.1973. Furthermore, Hardeep Singh son of Ajit Singh joined as a Math Master on ad-hoc basis on 08.08.1975. His services were regularized w.e.f. 01.04.1977.

2. The issue concerning the petitioner is that the pay of Hardeep Singh, who was junior to him in the Master Cadre was more as compared to him, which cannot be done and the respondents were liable to step up the pay of the petitioner equivalent to that of Hardeep Singh from the date the anomaly arose.

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3. The said claim of the petitioner has been rejected by the respondents by passing order dated 04.10.1999, a copy of which has been appended as Annexure P-5. In the said order, the reason given is that Hardeep Singh, who was junior to the petitioner, had worked as a Master on ad-hoc basis from 08.08.1975 till 01.04.1977 benefit of which service, he was given qua annual increment, hence, Hardeep Singh is drawing more salary than the petitioner, which order is under challenge in the present writ petition.

4. Upon notice of motion, the respondents have filed the reply and the similar reason given in the impugned order dated 04.10.1999 (Annexure P-5) is being taken to support the same.

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

6. From the facts, which have been gone undisputed is that the petitioner joined as a Master on regular basis on 15.01.1973 whereas Hardeep Singh had joined the same post on 08.08.1975 and his services were only regularized from 01.04.1977. Therefore, even if Hardeep Singh is given the increment for his ad-hoc service then also the petitioner remains senior to him as the petitioner is working in the Master Cadre from 15.01.1973. A regular employee is entitled to get increment from the date of regular joining, hence, once the regular joining of the petitioner in the Master Cadre is on a prior date from the date when Hardeep Singh joined even on ad-hoc basis on 08.08.1975, the reason being given by the respondents to grant the higher salary to Hardeep Singh is not in accordance with the facts of the present

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case. Even if, the ad-hoc service rendered by Hardeep Singh is counted for the increment, then also the petitioner has a longer length of service as he is working in the Master Cadre since 15.01.1973 as compared to the initial joining of Hardeep Singh on 08.08.1975.

7. Keeping in view the settled principle of law that senior has to get the higher salary and Hardeep Singh concededly being junior to the petitioner was getting more, the respondents are directed to step up the pay of the petitioner equivalent to that of Hardeep Singh, who was working as a Math Master from the date the anomaly occurred. The petitioner will also get the arrears of the salary from the date the present petition was filed i.e. from 22.11.1999. In case, after the grant of the higher salary, the pensionary benefits of the petitioner are to be revised, consequential benefits be also released to him along with arrears. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order.

8. Petition is allowed in above terms.

9. Any civil miscellaneous application pending if any, also stands disposed of.

July 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No