



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

234

CWP-6156-2021 (O&M)

Decided on :09.05.2024

SATISH CHANDER

. .petitioner

Versus

STATE OF HARYANA AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner is entitled for step up of his pay equivalent to one Vipin Gupta and Sunil Kumar, being senior to both these employees on the post in question. The reliance is being placed by learned counsel for the petitioner upon a joint seniority list issued by the office of the Commissioner, Rohtak Division of the Assistant/Stenographer showing the position as on 30.06.2017 wherein the name of the petitioner is at serial No. 3 and the name of Vipin Gupta is at serial No. 65. Learned counsel for the petitioner submits that as per the said joint seniority list, the petitioner is senior to the said Vipin Gupta, hence, the petitioner is entitled for step up of his pay equivalent to the said Vipin Gupta.
2. Upon notice of motion, the reply has been filed and as per the reply, the respondents have stated that the step up of pay can only be granted under Haryana Civil Services (Pay), Rules, 2016. According to Rule 58 (a) of the Rules, 2016, the junior as well as senior employee should belong to the same cadre and post in which they have been appointed or promoted should be identical and it should be in the same cadre, but in the present petition, the



petitioner as well as the employees, who are being alleged junior to the petitioner on the post in question, are working in a different cadre. Paragraph No. 2 of the said reply is as under :-

"2. That petitioner has no locus standi to file the present writ petition. The petitioner has claimed stepping of pay at par with respondents no. 5 & 6 just on the basis of the date of appointment and seniority lists of some particular office whereas benefit of stepping up of pay cannot be given only on the basis of date of appointment or seniority list because the seniority alone is not a criteria for stepping up of pay. In fact, there is specific criteria under the Rules for stepping of pay of the employees. The main criteria for stepping of pay under Rule 58(a) of the Haryana Civil Services (Pay) Rules, 2016 is as under-

"Both the junior and senior government employees should belong to the same cadre and the posts in which they have been promoted or appointed are identical and in the same cadre"

The petitioner's case is not covered under the above said criteria/rule because the petitioner and the respondents no. 5 & 6 do not belong to same cadre. In other words they did not born on same seniority list and they have been appointed/promoted in different cadre. (Petitioner Satish Chander was appointed as Clerk in DC office Cadre Bhiwani on 04.05.1990 while respondent no.



5 Vipin Gupta was appointed as Clerk in Chief Secretary.

Haryana office Cadre Chandigarh on 06.05.1992 whereas respondent no. 6 Sunil Kumar was appointed as Clerk in DC office Cadre Jind on 13.12.1988 and they were promoted as Assistant at in different cadre. Though the petitioner and Shri Vipin Gupta (respondent no.5) were promoted as Assistant on 21.08.2009 & 05.12.2016 respectively in the Division Cadre Rohtak but Shri Vipin Gupta is drawing higher pay due to re-fixation of his pay by the Chief Secretary to Govt. Haryana by giving him benefit of stepping up of pay for the period when Shri Vipin Gupta was posted in the Chief Secretary office Cadre Chandigarh as is evident from Annexure P-21 while Shri Sunil Kumar was promoted as Assistant on 28.01.2000 in the Commissioner Office Cadre Rohtak and as such he is drawing higher pay due to length of service as well as due to his early promotion as Assistant in different Cadre and therefore, the petitioner is not entitled for stepping up of pay at par with respondents no. 5 & 6 or any type of other benefit on this account. Hence, present writ petition is liable to be dismissed on this sole ground.”

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

4. Once, the petitioner as well as the junior employees who are working in the different cadre, there cannot be any joint seniority list in the



different cadre. Further, not only this, the petitioner was working in the office of Deputy Commissioner, Bhiwani, whereas, the Vipin Gupta, who is being claimed as junior to him, was working in the office of the Chief Secretary. Sh. Sunil Kumar was appointed as a Clerk in the office of Deputy Commissioner, Jind and they all were promoted to the post of Assistant in their respective different cadres.

5. The joint seniority list of the Assistant working in the different cadres has been framed for further promotion to the office of the Commissioner Rohtak, hence, it will not give the petitioner the right to claim that Vipin Gupta and Sunil Kumar who were working as a clerk/assistant in the different cadres are junior to the petitioner in the cadre of Assistant. The seniority inter se is to be seen in the same cadre and not in the different cadre.

6. In case, any joint seniority list has been framed for further promotion cannot be treated as seniority in the same cadre especially when all the person including petitioner, Vipin Gupta and Sunil Kumar are working in the different cadre and in the different offices. The said seniority list cannot be treated as a ground so as to claim the step up of pay by treating the others employees as juniors.

7. It is also a conceded position that the petitioner is working in the different office as assistant whereas, Vipin Gupta, and Sunil Kumar are working as assistant in the different offices of the different Deputy Commissioner. That being so, the claim being raised by the petitioner for step up of his pay is not covered under Rule 58 of the 2016 Rules, hence, no ground is made out for grant of any relief to the petitioner as being claimed by him in the present petition.



8. At this stage, the learned counsel for the petitioner submits that though the petitioner has already been retired from the service but his retiral benefits have not been released by the respondents so far.

9. Upon this, Learned counsel for the respondents submits that in case any representation is received from the petitioner claiming the release of retiral benefits in the office of concerned authority, the same will be considered by the appropriate authority in accordance with law and an appropriate speaking order on the said representation will be passed within the period of eight weeks from the receipt of copy of any such representation and in case, it is found that any of the benefit for which the petitioner is entitled for, has not been released, the same will be released to the petitioner within the period of further four weeks otherwise due reasons will be recorded in the said speaking order for not accepting the claim of the petitioner.

10. Keeping in view the above facts and circumstances, no ground is made out for any interference by this Court in the present petition, hence, the same stands dismissed.

11. The petitioner is at liberty to file representation in the office of concerned authority claiming the release of retiral benefits to the petitioner.

12. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

09.05.2024

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*