

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

236

CWP-6597-2019 (O&M)
Decided on :18.04.2024

VIJAY PAL SINGH

.PETITIONER

Versus

STATE OF HARYANA AND ORS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Balraj Singh Rathee, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the benefit of Step-up of pay granted to the petitioner vide order dated 28.10.2014 (Annexure P-17) has been withdrawn without giving any opportunity of hearing to the petitioner vide order dated 11.02.2019 (Annexure P-18) and hence, the said order dated 11.02.2019 (Annexure P-18) is liable to be set-aside.

2. Learned counsel for the respondents on the other hand submits that in the present petition, the petitioner claim the step up of his pay equivalent to his junior namely, Satish Kumar who was working as Mechanic. The said Satish Kumar had been given technical pay-scale and

his pay was being increased by the respondents. Subsequently, keeping in view the promulgation of **Haryana (Abolition of Distinction of Pay Scale between Technical and non-Technical Posts) Act, 2014 (Annexure P-7),** the grant of technical pay-scale was withdrawn, but, the technical pay-scale already granted to the employees was protected as a personal measure to them.

3. Learned counsel for the respondents-State submits that without appreciating the said provision of 2014 Act, the said benefit was extended to the petitioner on 28.10.2024 i.e. after the promulgation of the 2014 Act.

4. Learned counsel for the respondents further submits that after the grant of the said benefit to the petitioner, certain other similarly situated employees also raised the claim for stepping up of their pay by filing of CWP NO. 12515 of 2018 titled as '**Jassa Singh and others v. state of Haryana and others**' and the State was directed to consider their claim and while considering their claim, it is found that the petitioner, whose case was being cited for the grant of said benefit, has also been granted the benefit wrongly and the claim of the similarly situated employees was rejected and thereafter, the benefit given to the petitioner was withdrawn keeping in view the order dated 03.07.2018 (Annexure P-19) passed by the competent authority qua similarly situated employees.

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

6. Though there is no dispute with regard to the fact that any benefit granted to the employees by the department can only be withdrawn after giving the due show cause notice but in the present case, the show cause notice had not been given to the petitioner.

7. Further it is also a matter of fact that no grant of show cause

notice only violates the rules of principle of natural justice. The employee concerned has to point out the prejudice caused to him by proving that in case, any show cause notice was given to him, he would have taken a valid objection qua the proposed action of the withdrawal of the said benefit.

8. Now this Court has two options only, one to remand the case back to the authorities concerned to pass a fresh order or to consider the objection of the petitioner which intends to raise before the authorities concerned qua the prejudice caused to the petitioner in respect of impugned order. This Court decides to grant the hearing to the petitioner to point out as to whether the decision of withdrawal of the benefit by the respondents vide order dated 11.02.2019 (Annexure P-18) is valid or not.

9. The only argument being raised by the learned counsel for the petitioner is that once Satish Kumar who was junior to the petitioner was granted the benefit of technical pay-scale and he started getting the higher pay-scale than the petitioner due to which, the step-up pay was given to the petitioner on 28.10.2014, hence, the step-up of the pay of the employee senior i.e. the petitioner was perfectly valid and legal.

10. It may be noticed that on the day when the petitioner was given step-up pay on 28.10.2014, the 2014 Act had already been promulgated according to which, the technical pay scale granted to the employees had already been withdrawn and there was a condition that the technical pay-scale already granted to the employees will not be withdrawn but will be paid personal to them. Hence, on the day when the petitioner pay was step-up in the year 2014, the technical pay-scale, due to which, Satish Kumar was getting higher pay scale than the petitioner was to be treated personal to him. That being so, the respondents have rightly rejected the claim of the similarly situated employees while passing order dated 03.07.2018

(Annexure P-19). After the passing of the said order dated 03.07.2018 (Annexure P-19), the benefit which was also wrongly extended to the petitioner has also been withdrawn, hence, no grievance can be made by the petitioner.

11. Further , learned counsel for the petitioner submits that Satish Kumar, who was junior to the petitioner was not entitled for the grant of technical pay-scale which was wrongly granted to him. That being so, even otherwise, the wrong benefit given to Satish Kumar cannot be claimed by the petitioner as there is no negative discrimination. Even otherwise, the grant of benefit to Satish Kumar is not a issue before this Court hence, no observation can be made by this Court in this regard.

12.. Hence, keeping in view the facts and circumstances of the present case recorded herein above, no ground is made out for interference in the present petition, hence the same stands **dismissed**.

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

(HARSIMRAN SINGH SETHI)
JUDGE

18.04.2024

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No