

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(259)CWP-9489-2020
Date of Decision : January 25, 2024

Alla Ditta and others.. Petitioners

Versus

State of Haryana and others.. Respondents

(242)CWP-8254-2023

Dharambir.. Petitioner

Versus

State of Haryana and others.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ankur Goyat, Advocate, for
Mr. Ramesh Goyat, Advocate, for the petitioners
in CWP No.9489 of 2020.

Mr. Amarjeet Beniwal, Advocate, for the petitioner
in CWP No.8254 of 2023.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana and
Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.
2. In the present writ petitions, the prayer of the petitioners is that the petitioners be given a technical pay scale of Rs.1200-2040/- from the

date of initial appointment on the post of Helper instead of on completion of 3 years of service from the date of their promotion to the post of Assistant Fitter/Assistant Black Smith.

3. Learned counsel for the petitioners argues that State of Haryana issued a notification dated 11.03.2014 annexed as (Annexure P-6) granting a higher pay scale to the employees working on the technical post and on the basis of the said revision, the petitioners were also granted the technical pay scale of Rs.1200-2040/-. The only anomaly while implementing the said technical pay scale was that the same was granted to the petitioners on completion of a period of 3 years from the date of promotion to the post of Assistant Fitter/Assistant Black Smith whereas, the petitioners were entitled for the same while working on the post of Helper i.e. from their initial date of appointment. Learned counsel for the petitioners submits that the respondents are under an obligation to grant the petitioners the benefit of technical pay scale from their initial date of appointment i.e. when they were appointed on the post of Helper.

4. Learned State counsel submits that the claim of the petitioners to get the technical pay scale is not at all admissible. Learned State counsel further submits that the present petition i.e. CWP-9489-2020 has been filed in the year 2020 whereas, by a notification dated 11.03.2004 (Annexure P-6) (Act 1 of 2014), the grant of technical pay scale has already been abolished by the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) Act, 2014 hence, once the benefit of technical pay scale has already been withdrawn, no further benefit can be granted to the petitioners on the basis of claim to get a technical pay scale from the initial date of appointment.

5. Learned State counsel submits that once under the 2014 Act,

the employees who are already getting the technical pay scale, only they have been protected, the petitioners on the basis of the said protection, are entitled for any amendment of technical pay scale from their initial date of appointment and abolition of technical pay scale will come in their way.

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

7. The grant of a technical pay scale was under a particular notification of the Government of Haryana, which benefit of technical pay scale has already been withdrawn under 2014 Act. While passing 2014 Act, the employees who had already got the technical pay scale upto the date of notification were protected with regard to the benefit already extended to them while implementing the grant of technical pay scale. Once the benefit of technical pay scale is not at all admissible any further, the plea of the petitioners that the grant of technical pay scale to them prior to the year 2014 should be amended from a particular date cannot be accepted. Once the said benefit is not at all available after 2014 Act, as the benefit of technical pay scale stood withdrawn, the claim of the petitioners that they are entitled for the technical pay scale from the date of their initial appointment, will be contrary to the 2014 Act hence, the said claim cannot be entertained/allowed.

8. The argument of the learned counsel for the petitioners that once the benefit of technical pay scale was protected by 2014 Act, the same will also mean the entitled technical pay scale and not the pay scale which an employee getting on the date of notification dated 11.03.2014 (Annexure p-6) (Act 1 of 2014) by which, the Act was brought into force.

9. The said argument is fallacious.

10. The relevant provisions of the Act, on the basis of which, the petitioners continued to get the technical pay scale as granted to them is as under:-

“ Provided that all those persons who had already been granted unconditionally the up-graded pre-revised pay scale and drawing the same before date of notification of the Haryana (Abolition of Distinction of Pay Scale between Technical and Non-technical Posts) Ordinance, 2013 (Haryana Ordinance No.6 of 2013). viz. the 10th December 2013, shall continue to draw these pay scales, as a measure personal to them.”

11. A bare perusal of the above reproduction would show that even under the proviso, the benefit which was extended under the technical pay scale prior to 10.12.2013, has been saved. It is not a case that the employees remained entitled for the benefit of technical pay scale after 2014 Act. Only withdrawal of the benefit already extended has been saved by the said clause of 2014 Act hence, the argument that the petitioners will still be eligible to claim their entitled technical pay scale even after withdrawal of the same, is not borne out of the proviso to Rule 4 of 2014 Act.

12. Learned counsel for the petitioners further submits that the said benefit has been granted to similarly situated persons in some of the Districts.

13. It may be noticed that the petitioners have to stand on their own legs. Any benefit granted de-hors the Rules/Act, cannot be claimed as a matter of right. There is no negative discrimination. Once, it is found that the claim being raised by the petitioners is not admissible to them as per law, merely on the ground that the same has been wrongly granted to some other persons, will not create a right with the petitioners to claim the same.

14. No ground is made out for any interference by this Court in the present writ petitions.
15. The present writ petitions are dismissed accordingly.
16. A photocopy of this order be placed on the file of other connected case.

January 25, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No