

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

859

CWP-1419-2009 (O&M)
Date of decision: 26.09.2024

Satbir Singh

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing the communication dated 11.12.2008, whereby the claim for stepping up of pay equivalent to respondent No.4, who was junior to the petitioner, was rejected.
2. Learned State counsel makes a reference to the written statement, against which no replication has been filed, relevant paras whereof read thus:

“The comparison of the petitioner with the respondent No.4 on the ground of Junior& Senior is untenable because the petitioner was appointed as Asst. Electrician and Respondent No.4 was appointed as Asst. Battery Attendant. The Seniority is decided according to the cadre and at Depot level. It is quite pertinent to mention that the respondent No.4 was granted the technical scale of 480-760 w.e.f. 01.02.1981, where as the petitioner was not granted the I.T.I. scale since in his service record he was shown non I.T.I. Further more stepping up of senior can be considered only when both employees are on the same post.

4. That the contents of Para No. 4 of the petition are wrong and hence denied. At the time of appointment of the petitioner and respondent No.4 I.T.I. was not prescribed qualification for the appointment to the post of



Asstt. Electrician and Asstt. Battery Attendant. The petitioner was appointed as Asstt. Electrician by G.M. Haryana Roadways, Hisar vide order No.3842/ECW dated 14.06.1979 and as per record he was shown as Matric. Where as respondent No.4 Sh. Dalbir Singh was appointed by G.M.Haryana Roadways, Bhiwani as Asstt. Battery Attendant on 03.11.1980 and as per record he was shown as Matric + I.T.I.

5. That the contents of Para No.5 of the petition are wrong and hence denied as the petitioner is shown as Matric, so he was not given technical scale. Where as the respondent No.4 being Matric + I.T.I. Made application for technical scale on 29.06.1986 and in compliance of Head Office letter No.23937-52/E4/EII- dated 24.07.1987 the respondent No.4 was granted the technical scale of 480-760 w.e.f. 01.02.1981. It is worthwhile to mention that above letter No.23937-52/E4/EII- dated 24.07.1987 was issued by the Head Office in reference to CWP No.185 & 186 of 1987 in which the respondent No. 4 was party, and the instructions were confined only to the petitioners in the above said CWP. In this way the case of the petitioner for technical scale was not covered under instructions dated 24.07.1987.”

3. As a matter of fact, during the interregnum, Haryana (Abolition of Distinction of pay scale between technical and non-technical posts) Act, 2014 has been promulgated, whereby the Instructions granting technical scale have been withdrawn from the date of their issuance with a proviso regarding those already granted the upgraded pay scale to continue with the same as a measure personal to them. The relevant Section thereof reads thus:

“4. The entry at serial number 3 under 'common category posts' in the annexure to instructions bearing No. 1/54/2PR (FD) -82, dated 30-03-1982, at serial number 40 in annexure A to instructions bearing No. 6/23/3PR (FD)-88, dated 23-08-1990, No. 6/23/3PR(FD)-88, dated 26-07-1991 and No. 6/83/2009- 3PR (FD), dated 09-08-2010 are hereby withdrawn and shall be deemed to have been withdrawn with effect from the date of their coming into force:

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.”

4. It would be gainful to refer to the judgment passed by the Full Bench of this Court in a batch of appeals, the lead one being **State of Haryana & Ors. vs. Sunder Sham & Ors.**¹, operative portion whereof reads thus:

“A Division Bench of this Court vide order dated 09th April, 2013 having differed with the view taken earlier by a Coordinate Bench in Ved Parkash & Ors. Vs. State of Haryana [CWP No. 5665 of 1991] decide on 11th May, 2010 and Gurdev Singh Vs. State of Haryana, 2012[2] SCT. 126 referred the following questions of law for their authoritative determination by a larger Bench:

“[a] Whether the incumbent to a post is entitled to pay-scale of Rs.1200-2040 and/or Rs.950-1400 irrespective of the qualification?

[b] Whether such pay-scale is admissible only to the holders of the technical posts so specified either in the relevant recruitment rules or in the Executive instructions or in terms of requisition seeking appointment of the said post?

[c] Whether appointment of a candidate who is a matriculate or ITI irrespective of nature of post is entitled to higher pay scale?

[d] Whether a candidate who is appointed to a post for which there was no technical qualification but by subsequent promulgation of Rules or Executive Instructions, the technical qualifications is made mandatory whether such incumbent is also entitled to a higher pay scale?

[e] Whether a candidate who is working on a technical post but without any qualification is entitled to a higher pay scale on the basis of experience only?”

xxx

xxx

xxx

[4]. In view of the fact that the very foundation of the

¹ LPA-393-2013, decided on 11.12.2013



claims raised by varied sets of employees, namely, the Executive Instructions have been withdrawn from the date[s] these were issued and the distinction between ‘Technical’ and ‘Non-Technical’ posts having been eliminated, we are of the considered view that the questions of law formulated for our determination vide reference order dated 09th April, 2013 no longer survive and have become redundant.
[5]. The impact of the Ordinance on the pending Letter Patent Appeals or Civil Writ Petitions can be effectively gone into by the concerned Bench[es] in accordance with law.”

5. A similar plea taken, as in the case at hand, has already been rejected by this Court in **Mukesh Kaushik vs. State of Haryana²**, relevant paras whereof read thus:

“5. A perusal of the above reproduced provisions shows that various instructions issued over a period of time, including instructions, Annexure P-2, have been withdrawn. Proviso to Section 4 of the Act of 2014 protects those employees, who have been extended the benefit of technical pay scale prior to 10.12.2013, that is, the date from which the Ordinance came into force. It has been provided that such employees shall continue to draw technical pay scale as a personal measure.
6. In view of the above, reliance placed by the counsel for the petitioner upon judgment of the co-ordinate Bench, will not come to his aid as it has been passed much before the coming into force of the Act of 2014.”

6. In view of the above, the present petition is dismissed.

(AMAN CHAUDHARY)
JUDGE

26.09.2024
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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No