



CWP-14890-2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14890-2013

Date of Decision: 31.07.2024

BHUPINDER PAUL CHHABRA

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Dr. S.K. Redhu, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Amit Rao, Advocate for Mr. Anurag Goyal, Advocate
for respondent No.4.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed seeking a writ of *certiorari* quashing the order dated 28.12.2012, Annexure P-12, whereby the petitioner's claim for pay scale equivalent to the one admissible for the post of Divisional Accountant in Kurukshetra University has been rejected.

2. Briefly, the facts apparent on record are, the petitioner was appointed as a Clerk in the respondent-Maharshi Dayanand University on 14.10.1976, and promoted as Senior Clerk on 05.04.1982. The post of Senior Clerk was re-designated as that of Assistant, vide order dated 21.03.1987. Thereafter, the petitioner was appointed as Divisional Accountant on 16.04.1996 in the pay scale of ₹1400-2600+100 as special pay, and joined as such. His pay initially was fixed at ₹2000+100 as special pay. On 19.09.2001, the pay scale was revised to ₹1600-2660+60 as special pay with effect from 01.04.1995. Thereafter, it was revised to ₹9300-34800+3600 grade pay with effect from 01.01.2006, whereas Divisional Accountant in another State University, Kurukshetra University, was in the pay scale of ₹9300-



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34800+4000 grade pay. The petitioner represented to the respondent-University, seeking the same pay scale on the ground of equality in status, but it was not given.

3. Learned State counsel contends that the claim is not admissible as the Finance Department after examining the issue, has rejected the petitioner's case. The Divisional Accountant in the Kurukshetra University was given the revised/higher grade pay vide letter dated 17.06.2005, Annexure R-4/3, on the condition that the University would meet the entire additional expenditure out of its own resources, and no additional grant would be sanctioned by the Government for the same. There is no such assurance by the respondent-University, so far as the petitioner's claim is concerned. She further contends that the letter dated 09.02.2011, Annexure R-4/4, whereby the petitioner's claim was rejected by the Director General, Higher Education, Haryana, has not even been challenged by the petitioner.

4. Heard.

5. It is apparent on record that the petitioner was appointed as Divisional Accountant in the pay scale of ₹1400-2600+100 as special pay, which was revised to ₹9300-34800+3600 grade pay. Also, in another State University, Bhagat Phool Singh Mahila Vishwavidyalaya, Khanpur Kalan, Sonapat, the post is in the same scale of pay. The higher scale given to the Divisional Accountant in the Kurukshetra University is for different reasons, that entire expenditure for the same is to be met by the University out of its own resources. Therefore, no parity as such can be claimed to the post in the Kurukshetra University, for which the scale has been given for different reasons.

6. Besides, it is also a settled proposition of law that an employee cannot claim higher scale of pay as a matter of right. The competent authority

has taken a conscious decision to grant a particular scale of pay for the post in question, which was duly accepted by the petitioner by joining service. It cannot be termed arbitrary or discriminatory only because a different pay scale for the post has been prescribed by another employer. Reference in this regard can be made to the law laid down by the Supreme Court in *State of Uttar Pradesh and Another v. Virendra Bahadur Katheria and Others*, 2024 SCC Online SC 1712, it reads as under:

53. It needs no emphasis that prescription of pay scale for a post entails Policy decision based upon the recommendations of an expert body like Pay Commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder cadre. Similarly, pay parity cannot be claimed as an indefeasible enforceable right save and except where the Competent Authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or distinct qualifications. Incidental grant of same pay scale to two or more posts, without any express equation amongst such posts, cannot be termed as an anomaly in a pay scale of a nature which can be said to have infringed the right to equality under Article 16 of our Constitution.

7. In view thereof, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

31.07.2024
Ad

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