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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1023

CWP-20233 of 2012
Date of Decision:15.10.2024

Ashok Kumar Sharma and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioners.
Mr. Dushyant Saharan, AAG, Haryana

AMAN CHAUDHARY, J. (Oral)

1. The prayer of the petitioners who were working against the Class III Technical Posts is for grant of technical pay scale on the basis of Instructions dated 23.08.1990 and 26.07.1991.
2. Evidently, during the interregnum, Haryana (Abolition of Distinction of pay scale between technical and non-technical posts) Act, 2014 has been passed and promulgated on 11 March, 2014, whereby the Instructions dated 23.08.1990, 26.07.1991 and 09.08.2010, giving technical scale, have been withdrawn from the date of their issuance with a proviso regarding those already granted the upgraded pay scale to continue with the same as a measure personal to them.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 whereof 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dated 23-08-1990, No. 6/23/3PR(FD)-88, dated 26-07-1991 and No. 6/83/2009-3PR(FD), dated 09-08-2010 are hereby withdrawn and shall be deemed to have been withdrawn with effect from the date of their coming into force: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.”

3. A beneficial reference can be made 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.**, relevant paras whereof read 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 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.”

4. As an upshot, the present petition is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

October 15, 2024

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