



CWP-16586-2021

:1:

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-16586-2021 (O&M)

Date of decision : 19.12.2024

HARDEEP SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. P. K. Goklaney, Advocate with
Mr. Ashish Goklaney, Advocate
for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance of the petitioner is that his pay has been refixed in the grade pay of Rs.5000/- instead of 5400/- which was granted to him at the time of his retirement which act on the part of the respondents is arbitrary and illegal and the same should be set aside.

Upon notice of motion, the respondents have stated that starting from the year 2011, under the grant of ACP, the higher grade pay was not to be given but only an increment was to be given and therefore, the petitioner was to continue with the grade pay of Rs.5000 instead of Rs.5400/- which was granted to him advertently and therefore, the same has been withdrawn.

Learned counsel for the respondents further submits that

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whatever the benefit of grade pay was given to the others also, has also been withdrawn with the clear condition that no recovery of the excess amount paid will be done and therefore, only pay/ pension of the petitioner has been refixed which is in accordance with the entitlement of the petitioner.

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

In the facts and circumstances of the present case, the only question is whether, the petitioner was entitled for the higher grade pay under the ACP scheme or was only entitled for one increment. Learned counsel has not been able to show to this Court that under the ACP scheme, starting from the year 2011, the benefit of higher grade pay was to be extended and not the increment. Further, learned counsel for the petitioner has not been able to show that anyone else, who was similarly situated, was allowed the benefit of higher grade pay instead of increment. As per the respondents, along with the petitioner other employees were also given the said benefit of higher grade pay which has been withdrawn from everyone keeping in view the fact that from the year 2011, the higher grade pay could not have been given under the ACP scheme and only benefit of one increment could have been given.

Learned counsel for the petitioner has not been able to show his entitlement to continue with the grade pay of Rs.5400/-. The only argument raised is that once the benefit was extended and the petitioner retired, the grant of the higher grade pay could not have been withdrawn. In the present case, the grade pay has not been withdrawn but the actual grade pay

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admissible has been granted by the respondents. Once, only the grade pay which the petitioner was entitled for has been given to him, it cannot be said that the pay of the petitioner has been reduced in the facts and circumstances of the present case.

Further, it is not only the petitioner but other employees also from whom the higher grade pay has been withdrawn without their being any recovery, after giving them the said benefit.

Learned counsel for the respondents have stated that even after after refixing the salary of the petitioner upto the date of retirement, no recovery of any excess amount has been done from him.

Learned counsel for the petitioner submits that the instructions (Annexure P-5) has been made retrospectively applicable. It may be noticed that the said instructions have not been made retrospectively applicable but only the clarification has been given qua the actual grade pay admissible after the year 2011. It is not that earlier, the grade pay of Rs.5400/-was admissible which has been reduced to Rs. 5000/-. The grade pay admissible to the post of the petitioner remained Rs.5000/- but was wrongly given to the petitioner as Rs. 5400/- instead of one increment. The grade pay of Rs.5000/- has been given to the petitioner with one increment on account of the grant of ACP and therefore, it is not that the pay scale of the petitioner has been reduced with retrospective effect but, the pay scale to which the petitioner is actually entitled, has been given keeping in view instructions (Annexure P-5).

Keeping in view the above, no ground is made out for any



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inference by this Court and present petition is dismissed.

Pending applications, if any, also stand disposed of accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

19.12.2024
Rimpal

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No