

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

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CWP-17743-2019 (O&M)

Date of decision: 02.04.2024

Mastan Singh and others

...Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. D.S. Rawat, Advocate for the applicant-petitioners.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)**CM-4988-CWP-2024**

Prayer in the present application is for preponing the date of hearing of the main case from 23.07.2024 to some earlier date, it being a covered case by judgment in **Didar Singh vs. State of Punjab and others**, CWP-4625-2016, decided on 28.02.2024 and for its disposal in terms thereof.

For the reasons mentioned in the application, the same is allowed and Annexure P-10 is taken on record and the main case is preponed and taken up on Board today itself.

Main Case

1. The present Civil Writ Petition under Article 226 of the Constitution of India, is filed for issuance of a writ for quashing the impugned letter dated 06.09.2018, Annexure P-9 as well as for directing the respondent to step up the pay of the petitioners at par with their junior, with consequential benefits along with interest @ 12% per annum on arrears from date of entitlement till actual payment made.

2. The petitioners were appointed as Tracers on regular basis under the general category in January, 1984. However, Sh. Jagdish Kumar, who was junior to them was granted accelerated promotion vide order dated 23.10.1989

as Draftsman being a reserved category candidate, by virtue of which, he

started to draw higher pay. Though, the promotion of the petitioners took place to the aforesaid post on 07.10.2009, 13.10.2009 and 03.12.2008, respectively, however, their pay still remained lower than him.

3. The issue is no longer *res-integra* that the pay of a senior cannot be lower than his junior, as was held in the case of **Didar Singh** (supra), wherein the petitioners prayed for the step up of their pay at par with their junior, who being in reserved category, was promoted before them. The relevant paras thereof read thus:

“3. Learned counsel for the petitioners submit that the issue, as involved in the present petitions, has already been dealt with and decided by this Court vide judgments dated 18.11.2008, CWP-5956-2008, titled as **Charan Dass vs. State of Haryana**, Annexure P-4 and 07.08.2012, CWP-17280-2011, **Prem Kumar Verma and others vs. State of Haryana**, Annexure P-5 and 06.12.2012, CWP-18307-2011, **Gurmeet Singh and another vs. Punjab School Education Board and others**, Annexure P6. They thus pray that the instant petitions may be disposed of in the same terms. The relevant portion of **Charan Dass** (supra), reads thus:-

“(iv) The grievance of the petitioner against the respondent, the failure on the part of the respondents to step up the pay resulted in gross inequity and the Civil Surgeon, Kaithal had even recommended the case of the petitioner for notional promotion and for stepping up his pay vide his letter dated 17.05.2007. The petitioner served a legal notice on the respondents on 23.07.2007 and followed it up with CWP 17344 of 2007. The respondents issued the impugned proceedings on the ground that the petitioner had been promoted from the post of Deputy Superintendent (Level 3) to the Superintendent (Level 4) while Rameshwar Dass Jangra had superannuated even without reaching Level 4. The impugned proceedings restricted its own instructions dated 14.11.1999 and later affirmed by instructions dated 27.11.2006 to be confined only to situation where a junior employee of reserved category reaching Level 3 also reached Level 4 and since Rameshwar had already superannuated before reaching Level 4, the stepping up of pay did not arise. The restrictive application which the impugned proceedings made, seems in our view, to be not based on any legal reasoning and non-sequeter. The instructions themselves came to be issued only to give effect to the decision of the

Hon'ble Supreme Court which clearly lays down that a employee in the general category though may be promoted to a later date, would catch up at the promotion post with a junior employee who had been promoted earlier on a roster point. The action of the respondent also betrayed invidious discriminatory treatment I that the Director, Food & Supplies Department had applied the instructions to the case of Munish Kumar over the claims of Shri Rajbir Singh as seen from the proceedings of the Director, Food & Supplied Department, Haryana dated 13.07.2007 (Annexure P-3) and even the Chief Secretary to Government of Haryana has issued an order dated 13.11.2007 setting out the correct position as to how Ajit Singh Jasuja's disposition was to be understood and applied to similar situation.

V Conclusion:-

(v) The petitioner is entitled to be stepped up in his scale of pay on the date of his promotion to the next higher post as Assistant on par with his junior Rameshwar who was promoted earlier and still later to the posts of Deputy Superintendents and Superintendents at the respective Levels 2, 3 & 4 from the dates when he assumed office at the promotion posts. The impugned order dated 04.02.2008 is set aside and the writ petition is allowed as prayed for.”

- 3. Learned State counsel is unable to rebut the factual position in this matter and also cite any contrary law.
- 4. In view of the aforesaid, the present petitions are disposed of in terms of the judgment passed in Charan Dass, Prem Kumar Verma and Gurmeet Singh (supra).”

- 4. Learned State counsel despite his best efforts was unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
- 5. In view of the aforesaid, the present petition is disposed of in terms of the judgments in the cases of **Didar Singh** (supra).

02.04.2024
Hemant

(AMAN CHAUDHARY)
JUDGE

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