

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

217

CWP-15301-2016
Date of decision: 19.04.2024

Gurnam Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K. Arora, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY. J (Oral)

1. The prayer made in the present petition is for quashing the order dated 17.03.2016, Annexure P-11, whereby the claim of the petitioner for granting him placement in the higher pay scale of Rs.14300-18150 from the due date i.e. 01.01.2001 in terms of the statutory rules has been declined and further prayer for directing the respondents to grant him the benefit of higher pay scale.

2. Learned counsel would contend that the petitioner was appointed as Agriculture Inspector (Fodder) on 09.10.1986, later re-designated as Agriculture Development Officer (Fodder) w.e.f. 01.01.1986 vide memo dated 21.06.1993, Annexure P-1. Thereafter, various petitions were filed, including CWP-7077-2004 by the petitioner which was disposed of in terms of the decision in CWP-3677-2011, which in turn was disposed of in accordance to the judgment passed by this Court in the case of **Dr. Naresh Kumar Kataria and others vs. State of Punjab and others**, CWP-23138-2010, decided on 05.01.2012, wherein the pay scales of Agriculture Development Officers/Horticulture Development Officers were

equated with that of Veterinary Officers of the Animal Husbandry Department. The implementation of the same was carried out vide order dated 27.03.2015, Annexure P-6. The statutory pay revision came into effect on 01.01.1986, vide notification dated 19.05.1998, Annexure P-2, however it was granted to the petitioner from 01.01.2007, instead of 01.01.2001, only on the premise that his ACRs between the said period were not satisfactory. The said issue already stands decided by this Court in favour of the petitioner in **Gurmail Singh vs. The State of Punjab and another**, CWP-24782-2015, decided on 28.11.2015, wherein it was held that ACRs have no bearing on the issue of pay scales, the relevant paras whereof read thus:

“6. It is past cavil that the dispute is covered by the decision of this Court when it equates the post of Veterinary Officer and Agricultural Officer/Horticulture Officer in the matter of award of pay-scales with reference to the more beneficial pay-scales available to Veterinary Officers are germane to the present cause brought on behalf of a Horticulture Officer who enjoys parity with an Veterinary Officer. The petitioner was himself a party to the previous litigation which was disposed of in his favour in terms of the decision in CWP No.23138 of 2010. The basis of the orders were dependent on reconsideration of the issue by the State itself and the production of the order dated December 21, 2011 accepting parity amongst the two counter-part posts in the same Administrative Department functioning under the Financial Commissioner (Development), Punjab. It would seem to be a sheer waste of time to go through the formal motions of summons issued to the State and to receive reply from them only to be told the same thing in the future and, therefore, in order to save time in a covered matter this writ petition is allowed. The impugned order dated March 13, 2013 (P-7) is set aside. It may be noted that the petitioner retired from service on September 30, 2002 and no arrears of pay and allowances are to be paid to him and in view of the liberty granted, there will be a notional refixation of pay and allowances and consequently, the last pay drawn will be revisited but the monetary benefits would be restricted to 36 months from the date of the this petition. This is in view of the order passed in Dr. Naresh Kumar Kataria's case (supra) on the basis of which CWP No.9936 of 2012 filed by

Sukhdev Singh Sandhu and four others was decided on May 23, 2012 by the learned Single Judge of this Court. In that petition, the petitioners have sought a mandamus directing the respondents to equate the posts and grant them the same revised pay-scale(s) as have been granted to their counter-parts in the Animal Husbandry Department, Punjab.

7. A writ of mandamus is thus issued to the respondents to re-fix the pay and pension of the petitioner in the light of the decision in Dr. Naresh Kumar Kataria's case (Supra) read with the decision in which the petitioner was a party. This would be done notionally w.e.f. January 01, 1996 within a period of three months from the date of receipt of certified copy of this order and irrespective of the ACRs of the petitioner which have no material bearing on the issue of pay-scales attached to posts/ equated posts since the mix up has resulted from a misreading of the rules as though the authority who passed the impugned order was dealing with the benefits under the Assured Career Progression Scheme. This fallacy is removed from the impugned order. The monetary benefits and arrears of pay and pension etc. will be computed and the outstanding dues will be paid to the petitioner restricted to 36 months from the date of filing of the present petition i.e. November 26, 2015.”

3. Learned State counsel despite his best efforts is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Gurmail Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

19.04.2024
Hemant

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