

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CWP-1454-2017
Date of Decision:26.02.2024.

Harbans Singh

...Petitioner

versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Puran Chand Arora, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY J.

1. Learned counsel restricts his prayer to the grant of higher pay for the period he worked on the post of Officer Superintendent, on officiating basis. Though, initially, the petitioner, who was working as Senior Assistant, since 01.02.1996, had declined promotion to the post Office Superintendent due to family circumstances and was thereafter, debarred for two years, as per Rule 18(2) Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, however, was granted the officiating charge of the said post vide order dated 08.07.2015, Annexure P-1 and worked as such, till he retired on attaining the age of superannuation on 31.01.2017. He was entitled to be paid the salary for the said post in terms of Rule 2.44A of Punjab Civil Services Rules (Vol.I,), even if held on officiating basis.
2. On the other hand, learned State counsel submits that the 3 posts, which had fallen vacant, were filled as per the reservation roster point and the

third post meant to be filled from the handicapped quota remained vacant, against which the petitioner was merely granted officiating charge for managing the office smoothly and since in the said order, it was not mentioned that he would be given higher salary, he is not entitled to the same.

3. Heard learned counsel on either side.

4. It would be worthwhile to refer to the law laid down by Hon'ble the Supreme Court in **State of Punjab vs. B.K. Dhir**, (2017) 9 SCC 337, wherein the respondent had been made to officiate on a higher post but was not paid the salary thereof, it was held that despite a condition imposed in the order, that he would not be entitled to any extra emoluments, it was incumbent upon the Department to pay the salary for the period he worked on the higher post.

5. The aforesaid judgment was followed by the Division Bench of this Court in LPA-1629-2023, decided on 06.11.2023, titled as **State of Haryana and another vs. Pardeep Narayan**, the respondent therein having been assigned duty of higher post by the Department on its own volition, till he retired on the age of superannuation, was held entitled to the benefit of the salary for the said period, observing that even a condition to the effect that he was not entitled to the pay scale of the said higher post, was not to be treated as an impediment.

6. In the instant case, indisputably, the petitioner being eligible, only on account of which, he was initially granted promotion which *albeit* he did not accept, leading to him having been debarred for two years. However, after the said period was over, for the smooth functioning of the office work, as is apparent from the fact mentioned in the written statement, he was granted the officiating charge of the post, without there being any condition of non-entitlement to the salary. But for the post being kept reserved for physically handicapped, he may perhaps would have been considered for regular promotion. Nonetheless, he, having

performed work on the higher post for a significantly long period and that too till he attained the age of superannuation, is, on the strength of the afore-referred judgments, entitled to the pay.

7. In wake of the above, the present petition stands disposed of with a direction to the competent authority to compute and release the salary of the post of Superintendent, for the period he officiated thereon, within two months from the date when a web-print of this judgment is received.

(AMAN CHAUDHARY)
JUDGE

26.02.2024
pry

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