

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

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CWP-20233-2016

Date of Decision :20.02.2024

Rajvir Singh**...Petitioner****Versus****State of Haryana and others****....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rajiv Sharma, Advocate and Ms. Indu Bala, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that the petitioner is entitled for step up of his pay equivalent to his junior namely, Balwan Singh, which prayer has wrongly been rejected by the respondents vide impugned order dated 06.07.2015 (Annexure P-11).

2. As per the facts mentioned in the petition, petitioner was initially appointed as Assistant Turner on 12.09.1986 on adhoc basis and his services were regularized on 09.05.1987 and thereafter, he was promoted to the post of Turner w.e.f. 01.03.1996.

3. Learned counsel for the petitioner submits that one employee namely, Balwan Singh, who was junior to the petitioner is getting higher pay than the petitioner, which is not permissible and, hence, the petitioner is entitled for the same pay scale as being given to the said junior employee

Balwan Singh.

4. Reply to the claim of the petitioner has been filed by the respondents wherein, it has been mentioned that in the reply to the legal notice served by the petitioner on 04.06.2015 a copy of which has been appended as Annexure P/10, though, it was mentioned that Balwan Singh is junior to the petitioner but from the records, it transpired that said Balwan Singh was appointed on regular basis on 01.04.1987 whereas, the services of the petitioner were regularized on 09.05.1987 hence, the said Balwan Singh is senior to the petitioner.

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

6. The only prayer of the petitioner is that the petitioner, who is senior to Balwan Singh should be granted benefit of step up of pay so as to grant him the same pay as being given to the junior employee namely, Balwan Singh. Reliance is being placed by the learned counsel for the petitioner upon the reply to the show cause notice served by the petitioner to the respondents wherein, it was mentioned that Balwant Singh is junior to the petitioner.

7. From the record, which has been brought before this Court today including the appointment order of said Balwan Singh, which shows that Balwan Singh was appointed on regular basis on the post of Turner on 01.04.1987, whereas it is a conceded position keeping in view the averments made in the present petition that services of the petitioner were regularized on 09.05.1987 i.e. after the regular appointment of Balwan Singh.

8. That being the factual position, it cannot be said that the petitioner, who is junior to Balwan Singh is eligible so as to claim benefit of

step up of his pay equivalent to said Balwan Singh.

9. Learned counsel for the petitioner submits that once the respondents in their reply to the show cause notice served by the petitioner themselves mentioned that Balwan Singh is junior to the petitioner, therefore, respondents cannot turn around to say that Balwan Singh is senior to the petitioner.

10. Merely an incorrect statement made by the respondents while replying to the show cause notice served by the petitioner cannot give a right to the petitioner to claim the benefit of same pay scale as being given to Balwan Singh in case the same is not admissible to him. Probably, keeping in view the fact that before regularization of service of the petitioner, the petitioner was working on adhoc basis on the post of Assistant Turner, the said statement in the reply to the show cause notice must have been made by respondents by taking into account the said adhoc service as well. As the claim of the petitioner is for the grant of benefit of ACP, which benefit can only be granted from the date of regularization of his service i.e. 01.05.1987, which is after the regular appointment of said Balwant Singh, who was appointed on the post of Turner on regular basis on 01.04.1987, claim of the petitioner for the grant of step up of his pay equivalent to said Balwan Singh cannot be accepted.

11. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

February 20, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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