



CWP-25645-2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25645-2013

Date of Decision: 16.10.2024

JAI GOPAL GUPTA AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Raman B. Garg, Advocate and
Mr. Mayank Garg, Advocate
for the petitioners.

Mr. Krishan K. Chahal, Addl. A.G., Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to step up Grade Pay of the petitioners to ₹4600 at par with that of their juniors with effect from 12.12.2011, with all consequential benefits.

2. Briefly, as per facts apparent on record, petitioner no. 1 was appointed as Instructor in the respondent-Department on 03.09.1975, and was promoted as Group Instructor on 11.05.2001. He was further promoted as Principal Group B/Vice Principal on 30.05.2008, but was never confirmed as such and superannuated from service on 30.06.2013. Petitioner no. 2 was

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appointed as Instructor in the Department on 16.10.1975, and was promoted as Group Instructor on 14.01.2003. Later, he was promoted as Principal Group B/Vice Principal on 21.03.2009, but was never confirmed. He superannuated from service on 31.12.2012.

2.1 The Government vide letter dated 12.12.2011, Annexure P-1, revised/modified pay scales/pay structures of certain categories of government employees prospectively. In terms whereof, Group Instructors in the Industrial Training and Vocational Education Department were given the revised pay scales of ₹9300-34800 with Grade Pay of ₹4000, as against the pre-revised pay scales of ₹9300-34800 with Grade Pay of ₹3300. In effect, only the Grade Pay was revised from ₹3300 to ₹4000. Accordingly, third Assured Career Progression (ACP) Grade Pay was also revised to ₹4600 from that date.

2.2 It is claimed that petitioners' junior Om Parkash Verma who was also working as Group Instructor in the Department was given the benefit of revised pay structure, and his Grade Pay was revised to ₹4600 with effect from 12.12.2011. The same benefit was not given to the petitioners, who were admittedly senior to Om Parkash Verma.

3. Learned counsel for the petitioners contends that as per the settled law, a senior cannot draw less pay than that of his/her junior. Accordingly, the petitioners' pay was required to be stepped up equivalent to that of their junior Om Parkash Verma.

4. Learned State counsel, on the contrary, contends that it was only due inadvertence that pay of petitioners' junior, who was in the ACP

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Grade Pay of ₹4000, was increased to ₹4600 which he was not entitled to. The same benefit was mistakenly given to other Group Instructors also, though they had already been working in ACP Grade Pay with effect from 01.01.2006. When it came to the Department's notice, the mistake was corrected and the pay of junior Group Instructors was re-fixed and reduced from ₹4600 to ₹4000, vide office orders dated 08.08.2014 and 01.07.2014, Annexure R-1 and R-2, respectively. Accordingly, the petitioners are not entitled to stepping up of pay.

5. Heard.

6. It remains undisputed on record that the Grade Pay of petitioners' junior was inadvertently revised by the Department from ₹4000 to ₹4600 though he was not entitled to it, and the mistake was rectified by issuing amended re-fixation of pay order dated 08.08.2014. The order brings the junior's Grade Pay at par with that of the petitioners. Accordingly, the claim for stepping up of pay raised by the petitioners is unsustainable being without any basis. Besides, it is not in dispute that the pay scale and Grade Pay given to the petitioners is as per the Rules.

7. In view thereof, there is no merit in the petition and it stands dismissed.

16.10. 2024
Seema

(TRIBHUVAN DAHIYA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>