

2. The petitioner, who belongs to the General Category, was appointed as Clerk on regular basis on 08.02.1977 and during the interregnum, one Harnek Singh, who belonged to the Scheduled Caste category, appointed as Clerk on regular basis on 09.02.1977, was granted accelerated promotion to the post of Junior Auditor on 19.05.1982, on account of which, his pay became higher. The petitioner, who was subsequently promoted, after the gap of 7 years on 01.04.1989, regained his seniority and was promoted as Superintendent Gr.-II vide order dated 20.08.2008 (Annexure P1). The petitioner was further promoted to the post of Superintendent Gr.-I vide order dated 13.11.2009 (Annexure P2), while Harnek Singh was promoted to the said post on 14.10.2011 and in the seniority list of Superintendent Gr.-I dated 16.02.2015, the petitioner was shown at Sr. No.4, whereas Harnek Singh at Sr. No.14. Be that as it may, petitioner's pay was still lesser than Harnek Singh, as in January, 2015, his basic pay being Rs.30,000/- and that of Harnek Singh Rs.34,000/-. The principle that in the eventuality of pay of the junior is higher than the senior, it has to be stepped up.

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).
- 5. A photocopy of this order be placed on the file of connected cases.

28.02.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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