



CWP-6356-2016 (O&M) and other connected case

-1-

208- 02 cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 09.09.2024

1. CWP-6356-2016 (O&M)

BHARTENDU LAL

..... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

2. CWP-22292-2021 (O&M)

KULDEEP KUMAR SHARMA

..... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rakesh Bakshi, Advocate
for the petitioner in CWP-6356-2016
Ms. Mehak Sharma, Advocate for
Mr. Sharman Sehgal, Advocate
for the petitioner in CWP-22292-2021
Mr. Krishan K. Chahal, Addl. A.G, Haryana

TRIBHUVAN DAHIYA, J. (ORAL)

By this common order, this Court proposes to dispose of the
above mentioned petitions as both are based on similar facts. For brevity, the

**CWP-6356-2016 (O&M) and other connected case****-2-**

facts have been taken from CWP-6356-2016.

2. The petition has been filed seeking a writ of *certiorari* quashing the order dated 20.01.2016, Annexure P-14, whereby the benefit of stepping up of petitioner's pay at par with that of his junior was withdrawn.

3. Facts of the case in brief are, the petitioner belongs to General category and joined as Science Master in the Department on regular basis on 28.01.1970. Jai Ram, who belonged to Scheduled Caste category joined as S.S. Master on 31.08.1970; being a reserved category employee, he was given accelerated promotion as Head Master with effect from 01.04.1981, and later as Principal with effect from 18.12.1995. But the petitioner was promoted in routine as Head Master with effect from 19/25.01.2001, and superannuated from service as such with effect from 31.08.2005. Considering this, his pay was stepped up equivalent to that of his junior with effect from 01.04.1981, vide order dated 23.04.2013, Annexure P-12. The order, however, was withdrawn by the respondents after about three years, vide impugned order dated 20.01.2016, Annexure P-14, on the ground that stepping up of pay was not admissible to the petitioner as his junior already stood promoted as Principal with effect from 18.12.1995, much before the petitioner got promoted as Head Master.

4. Learned counsel for the petitioner contends that the order is not sustainable, as the petitioner is entitled to stepping up of pay with effect from the date his junior was promoted as Head Master, following the principle of catching-up seniority with that of the employee given accelerated promotion on the basis of reservation.

5. Learned State counsel, on the contrary, contends that the claim

**CWP-6356-2016 (O&M) and other connected case****-3-**

is not admissible as the petitioner was not entitled to catch-up with his junior, neither on the post of Head Master nor on that of Principal. Therefore, it cannot be said that he was drawing lesser pay than that of his junior.

6. Heard.

7. The principle of stepping up pay of a senior employee equivalent to that of his junior is based on the premise that the two are working in the same cadre. The facts of the instant case remain undisputed that the petitioner never worked with his junior on the post of Head Master. He was promoted as Head Master with effect from 25.01.2001, whereas his junior was so promoted with effect from 01.04.1981, and was further promoted as Principal with effect from 18.12.1995. Apparently, before the petitioner was borne on the cadre of Head Master, his junior had already been promoted to the higher post of Principal. Accordingly, both of them never worked in the same cadre, and it cannot be said the petitioner was drawing less pay than that of his junior. And, no exception can be taken to the impugned order.

8. There is another aspect of the matter. The benefit of stepping up of pay was given to the petitioners by the Department on its own, without any misrepresentation or deceit on their part. Besides, undisputedly, they stand superannuated from service. Therefore, as per law laid down by the Supreme Court in *State of Punjab and others v. Rafiq Masih (White Washer) and others*, 2015(4) SCC334, recovery of excess payment cannot be effected from them at this stage.

9. In view thereof, the petitions stand disposed of as recovery



CWP-6356-2016 (O&M) and other connected case

-4-

cannot be effected from the petitioner(s) in view of the law laid down in *Rafiq Masih* case *ibid*.

- 10. Pending miscellaneous application(s), if any, also stand(s) disposed of.
- 11. Photocopy of this order be placed on the other connected file.

09.09.2024
Seema

(TRIBHUVAN DAHIYA)
JUDGE

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