

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP -20582-2020 (O&M)
Decided on :23.01.2024

Banwari lal and others . . . Petitioners
Versus
State of Haryana and another . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr.Chirag Kundu, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the grievance of the petitioners is that the petitioners are entitled for the grant of pay-scale of Rs. 37400-67000/- + Rs. 10,000/- grade pay as being given to one of the employee, namely, Narsher Singh by the respondents.
2. Learned counsel for the petitioners submits that once a junior to the petitioners is being granted the salary in the pay scale of Rs. 37400-67000/- + Rs. 10,000/- grade pay, the same should be made admissible to the petitioners as well, alongwith consequential benefits of revision of their pensionary benefits as well as their pension.
3. In the reply, the respondents have stated that the pay-scale of the post of Director Prosecution on which the petitioners were working is fixed as per the notification i.e. Rs. 37400-67000/- + Rs. 8800/- grade pay, hence, the petitioners cannot claim the grade pay of Rs. 10,000/- which is beyond the pay-scale fixed for the post in question.
4. I have heard learned counsel for the parties and have gone through the record with their able assistance.
5. It is settled principle of law that the pay-scales are fixed by the Government by a due notification. In the present case, for the post of

Director Prosecution, Haryana, it is a conceded position that the pay-scale has been fixed as Rs. 37400-67000/- + Rs. 8800/- grade pay, which was already given to the petitioners while they were in service. That being the position, claim for the grant of Rs. 10,000/- grade pay cannot be given to the petitioners as being claimed in the present petition.

6. Nothing has been brought to the notice of this Court as to why or on what account the grade pay of Rs. 10,000/- is being claimed by the petitioners.

7. For the grant of grade pay, the notification issued by the Government is to be complied with and according to the notification, the post of Director Prosecution has Rs. 8800/- grade pay attached with it, which grade pay has already been given to the petitioners, hence, the question of granting the petitioners Rs. 10,000/- grade pay is declined.

8. In the present petition, the primary contention of the petitioners is that one of their junior namely Narsher Singh was being granted the grade pay of Rs. 10,000/-. Learned State counsel has also accepted that keeping in view the reply filed, Narsher Singh was granted the pay-scale of Rs. 37400-67000/- + Rs. 10,000/- grade pay but submits that the same was given to the Narsher Singh on the basis of his work performance and the same was as a personal measure to the said Narsher Singh and he has already retired.

9. It may be noticed that once, the pay of a particular post is notified by the Government in a particular pay-scale with a particular grade pay, then how come, the State can pay higher grade pay than envisaged for the post in question. Nothing has come on record as to what extra services were being provided by the said Narsher Singh. In the absence of the said data before this Court, no findings can be recorded by this Court qua the grant of higher grade pay of Rs. 10,000/- in favour of Narsher

Singh. However, as the grant of said grade pay is being made the basis to raise the claim in the present petition by the petitioners, the respondents are directed to find out as to whether, any employee can be paid more than the pay-scale /grade pay fixed for the post in question. If yes, the higher pay-scale/grade pay can be granted then under what rule governing the service and if No, then how come Narsher Singh was provided higher grade pay beyond the grade pay fixed for the post in question.

10. The respondents should also consider as to whether what extra service a person can discharge while performing the duties on a particular post so as to demand/require the grant of higher grade pay. Let consideration be given by the respondents concerned to the said question of law **within a period of two months from the date of receipt of copy of this order** and before forming said opinion, all the concerned parties including Narsher Singh be also given appropriate notice to invite their view on the issue.

11. Further in case, any other employee has also been given the said benefit of higher grade pay, he be also heard before forming any opinion as to whether the grade pay beyond the grade pay fixed by the notification of the Government for a particular post can be extended to the employee while working on the said post and the said decision be brought to record of the case.

12. The present petition stands disposed of in above terms.

13. The pending civil miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

23.01.2024

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No