

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

206

\*\*\*\*\*

**CWP No.8890 of 2017  
Date of Decision : 2.5.2024**

*Sombir**..... Petitioner**versus**State of Haryana and others**..... Respondents*

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Nikhil Lather, Advocate, for  
Mr. Anurag Goyal, Advocate, for the petitioner

Ms. Tanushree Gupta, DAG, Haryana

---

**TRIBHUVAN DAHIYA J. (ORAL):**

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order/letter dated 13.12.2016, Annexure P-8, whereby the petitioner's case for stepping up of pay equivalent to that of his junior had been declined on the ground that the said junior was getting higher pay as a personal measure. Further, a writ of *mandamus* has been sought directing the respondents to step up the petitioner's pay with effect from 10.12.2003, with all consequential benefits.

2. Brief facts of the case are, the petitioner was initially appointed as Peon in the Department, and was promoted as Driver on 2.11.1995 in the pay scale of ₹1200-2000. His junior, Ved Parkash, who was initially appointed as T-Mate, was also promoted to the post of Driver on 10.12.2003. Before promotion he was drawing salary as Cleaner/T-Mate in the pay scale of ₹1200-2040 (technical pay scale) with effect from

1.5.1990, and therefore, his salary as Driver was fixed at ₹18,320, as against ₹14,130 being drawn by the petitioner. Since Ved Parkash was junior to the petitioner, he made a representation seeking stepping up of pay, which was rejected by the impugned order on the ground that the former was getting higher pay as a personal measure. Impugning the said order, the instant petition has been filed.

3. Learned counsel for the petitioner contends that both, the petitioner as well as Ved Parkash, are in the same cadre working as Drivers in the Department, and there cannot be disparity in their salary. As per settled law, in case junior is drawing more salary than his senior, the latter is entitled to stepping-up of pay to that level. He has relied upon a judgment of the Supreme Court rendered in *Commissioner and Secretary to Government of Haryana and others v. Ram Sarup Ganda and others*, (2011) 15 SCC 772, in support of his contention.

4. Learned State counsel, on the contrary, contends that the petitioner is not entitled to stepping-up of pay, since his junior, Ved Parkash, had been getting salary in technical pay scale with effect from 1.5.1990, much prior to promotion as Driver. Whereas, the petitioner had earlier been working as a Peon, a non-technical post, and was not entitled to such a scale. Accordingly, his pay as Driver cannot be stepped-up.

5. Heard.

6. There is no dispute on facts that the petitioner as well as his junior Ved Parkash, are working as Drivers in the Department, and the latter is junior to the former. It is also not in dispute that Ved Parkash is getting higher salary than that of the petitioner. The only justification put forth by the respondents in this regard is grant of technical pay scale to the

petitioner's junior on the feeder post of T-Mate, before being promoted as Driver. Since both of them have now been promoted as Driver and are working in the same cadre, the principle that a senior employee cannot draw salary less than that of his junior, will apply. Personal pay granted to a junior employee in the feeder cadre, cannot be a ground to deny stepping up of pay to his senior in the promotional cadre, since the junior is not getting any personal pay on the promotional post. Accordingly, the petitioner cannot be denied stepping up of pay equal to that of his junior Ved Parkash, who is not getting any special pay as a Driver. No rule or regulation to the contrary has been cited.

7. A reference in this regard can be made to law laid down in *Ram Sarup Ganda* case (*supra*) that pay of a senior employee has to be upgraded equivalent to that of his junior even if the former has been given the admissible two financial upgradations under the rules. Meaning thereby, whenever a junior employee is getting more pay than his senior, the latter will be entitled to stepping up of pay. The relevant paragraphs of the judgment read as under:

17. If there is any anomaly to the effect that the senior government servants are receiving lesser pay than their juniors, who entered the service from a different source of recruitment, certainly such senior government servants are entitled to stepping up of their pay in order to bring them on a par with the salary which is being received by their juniors. There is no clause in the scheme which prohibits such stepping up of salary which is a common practice applicable to all government employees in case there is anomaly in the pay structure of the employees.

18. By the impugned judgment, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group C post, but the Rules, as such, do not provide for that. The Rules say that if there are already two upgradations, then the employees concerned are not entitled to the benefit of ACP scales. Nevertheless, if ACP scales are higher, they are certainly entitled to the ACP scales at the starting point.

The date of giving such ACP scales is the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group D employees and in case there are anomalies to the effect that they receive lesser pay than their juniors working in the same cadre/post, such senior government servants are entitled to step up of their salary to get it on par with the salary which is being received by their juniors.

19. In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government. However, if upon revision of the pay scales, any employee is liable to refund any amount, the Government shall not insist on refund of such amount. If any such employee is entitled to get any amount by way of pay revision, the said amount shall be made available to him within a period of six months from the date of receipt of the copy of this order by the Government.

8. In view thereof, the petition is allowed. The impugned order/letter dated 13.12.2016 is set aside, and the petitioner is held entitled to stepping up of pay equivalent to that of his junior with effect from 10.12.2003, with all consequential benefits. Accordingly, the respondents are directed to revise the petitioner's pay and release the due arrears to him from thirty-eight months prior to filing of the petition, i.e., 26.4.2017, with interest at the rate of six per cent per annum from the due date to actual payment, within a period of four weeks from receiving a certified copy of this order.

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

**2.5.2024**  
*Ashwani*

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No