

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 110

Civil Writ Petition No.21549 of 2023
Date of Decision: *January 24, 2024*

Sumeet Saini

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

...

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

...

PRESENT: - Mr. Saurabh Bajaj, Advocate, for the petitioner.

Mr. Sanjeev Kaushik, Additional Advocate General,
Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing order dated 04.10.2016, Annexure P-7, whereby the petitioner was appointed as Laboratory Assistant; and a writ of *mandamus* directing the respondents to consider him for appointment on compassionate ground on the post of Laboratory Assistant instead of Laboratory Attendant.

2. It is contended by learned counsel for the petitioner that the petitioner's father was working as Lecturer Assistant in the respondent-College, and expired in harness on 21.07.2000. Accordingly, the petitioner became entitled to compassionate appointment on the post a grade lower, i.e., as Laboratory Assistant. The Governing body in its meeting dated 08.09.2000, Annexure P-1, also recommended that he be appointed as Laboratory Assistant due to vacancy created on account of his father's death. Permission

to appoint the petitioner as Laboratory Assistant in the pay scale of ₹ 3050-4350 was also sought from the second respondent/Director Higher Education, vide letter dated 18.08.2000, Annexure P-2. However, the petitioner was finally appointed as Laboratory Attendant in Chemistry Department vide letter dated 17.09.2001, Annexure P-4.

3. It is further contended that at that time, there was no difference in the pay scales of Laboratory Attendant, the post on which the petitioner was appointed, to that of Laboratory Assistant. Therefore, the petitioner accepted the offer. It was only after passing of judgment dated 20.11.2013, Annexure P-5, rendered in Civil Writ Petition No.5492 of 1997, *Gurcharan Singh and others vs. State of Haryana and others*, that the Laboratory Assistants were held entitled to higher pay scale, being a promotional post for Laboratory Attendants. Therefore, the petitioner should be considered for appointment as Laboratory Assistant as was originally recommended by the Governing body. The changed circumstances entitle him to seek appointment as Laboratory Assistant.

4. Heard.

5. It is not in dispute that the petitioner willingly accepted the offer of appointment as Laboratory Attendant instead of Laboratory Assistant, and continued working as such for over a decade before raising a claim for appointment on the latter post. Merely because this Court held in *Gurcharan Singh* case that Laboratory Assistants are entitled to a higher pay scale, it does not give any right to the petitioner to seek appointment on the post which was never offered to him. The issue decided by the Court has nothing to do with the petitioner's entitlement to the post of Laboratory Assistant.

6. In view thereof, there is no ground to entertain the petition.

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7. Dismissed.

(Tribhuvan Dahiya)
Judge

January 24, 2024
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No