

In the High Court of Punjab and Haryana at Chandigarh

(237)

CWP No.29880 of 2019(O&M)

Date of Decision: 23.07.2024

Kulwinder Singh and another

.....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sherry K. Singla, Advocate for the petitioners.

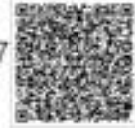
Mr. Amarpreet Singh Bains, Assistant Advocate General,
Punjab.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that the petitioners have wrongly been granted appointment on the Class IV post, whereas, the petitioners were entitled for appointment on Class III post.

2. Learned counsel for the petitioners submits that the claim of the petitioners for the appointment to the Class III post has now been rejected by the respondents vide order dated 18.09.2019, which order is under challenge in the present petition, copy of which is appended as Annexure P-14.

3. Learned counsel for the petitioners argues that under the instructions dated 19.08.1999 (Annexure P-1), the petitioners were entitled for Class III post, whereas, the respondents wrongly granted them appointment on a Class IV post and, though, the same were accepted, but the claim of the petitioners to get their entitled benefit under the instructions on



a Class III post cannot be taken away by the respondents and when the same was claimed, the said claim has been wrongly rejected by the respondents vide impugned order dated 18.09.2019 (Annexure P-14).

4. Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that once particular posts were offered, which have been accepted by the petitioners, the same cannot be upgraded to Class III post. Hence, the reason given for not accepting the claim is perfectly valid and legal and the prayer of the petitioners is liable to be rejected.

5. I have heard learned counsel for the parties and have gone through the records with their able assistance.

6. It is the conceded position that the petitioners accepted the Class IV post with their open eyes when the same were offered. Not only this, the said appointments were given in the year 2012, which were accepted and the present petition has been filed after a period of 07 years so as to claim Class III post. The question whether, once an ex gratia appointment has been accepted, the same can be upgraded or not, came up for consideration before this Court in CWP No.18530 of 2020 decided on 07.05.2024 titled 'Anil Kumar and others Vs. State of Haryana and others', wherein the grant of higher post upon reconsideration under the ex gratia scheme was held to be bad keeping in view the settled principle of law noticed while passing the said order.

7. Learned counsel for the petitioners has not been able to point out any differentiating fact in the present case as compared to the facts in



Anil Kumar and others’ case (supra) except that in the present case, the petitioners are seeking the appointment on higher post, whereas, in Anil Kumar and others’ case (supra), the challenge was to the grant of benefit of higher post.

8. Keeping in view the settled position of law in Anil Kumar and others’ case (supra), the claim of the petitioners for grant of higher post under the ex gratia scheme cannot be accepted and the writ petition is accordingly dismissed.

9. Pending miscellaneous application, if any, also stands disposed of.

JULY 23, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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