

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

LPA-1956-2023 (O&M)
Decided on 23.01.2024

Nachhattar Singh

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON’BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MR.JUSTICE AMAN CHAUDHARY

Present: Mr. BS Chahal, Advocate, for the appellant.

Ms. Lavanya Paul, DAG, Punjab.

AMAN CHAUDHARY, J.

CM-4887-2023

For the reasons stated in the application, the same is allowed and delay of 09 days in refiling the appeal is hereby condoned.

Main Appeal

1. The appellant has come up in appeal against the judgement and order dated 14.09.2023 passed by the learned Single Judge, whereby his prayer for being considered eligible was not accepted for the selection process for Group ‘A’, Punjab Civil Services (Executive Branch), on account of his fixed pay grade of Rs. 4200/- making him fall within group ‘B’ category of employees.
2. The learned Single Judge had dismissed the writ petition by rightly observing therein that as the appellant was drawing the pay grade of Rs. 3600/- on 27.05.2009 and in terms of the clarification order dated 29.09.2014, the subsequent increase in his pay grade to Rs. 4200/- would not result in a change in his status and thus, not entitle him to participate in the selection process for

Group-A, as his post still fell in Group-C. It was held by Hon’ble the Supreme

Court in **SS Grewal vs. State of Punjab and others**, 1993(4) RSJ 42, that the clarification relates back to the date of original notification.

3. Notably, pursuant to the directions passed by the learned Single Judge in the present matter, an additional affidavit dated 01.11.2017 was filed by the Deputy Secretary, Govt. of Punjab, Department of Personnel, which is apposite to be referred to and reads thus:

- “1. That the above mentioned writ is pending before this Hon’ble the Supreme Court and is fixed for 10-11-2017.
2. That the Hon’ble High Court was pleased to issue directions on 17-8-2016. The operative part of the order is as under:-
“Keeping in view the arguments being addressed on behalf of the petitioners, the State is directed to file an affidavit regarding number of cadres included in Group “C” services, as per Pay Revision Rules, 2009, which would get pushed up into the upper Group B Services on account of criteria being only grade pay as enhanced/ notified after the statutory Pay Revision Rules, 2009.”
3. That in compliance of the above directions of Hon’ble High Court, the Department of Personnel had filed an affidavit on the basis of information supplied by Department of Finance on 24.11.2016, which is already on record as Annexure R-1.
4. That Sh.Lakhwinder Singh Mann, Counsel for the petitioner had sent a letter dated 4.1.2017 whereby he pointed out that the cadre of pharmacists has not been mentioned in the annexure attached as Annexure R-1.
5. That upon receipt of the above letter, Department of Personnel sought the clarification from the Department of Finance on the issues raised by the Counsel for the petitioner. Department of Finance vide its letter No.1/88/2016-3FP-1/97 dated 17.2.2017 has sent the revised list, which includes the posts of Pharmacist and Block Extension Educator. A copy of this letter (duly translated) along with the list is enclosed herewith as Annexure R-2.”

4. As per Annexure R2, appended therewith, 37 posts such as Assistant Sub Inspector Mukh Sevika, Craft Instructor, Workshop Instructor, Junior Photographer, Assistant Cameraman, Labour Inspector, Motor Vehicle Inspector, Pharmacist, Block Extension Educator would have to be placed in group ‘B’ category, had it not been for the clarificatory instructions dated 29.09.2014.

5. The increase in pay grade would not have *ipso facto* made the appellant eligible for consideration for appointment to a higher post, especially in wake of a conscious decision having been taken by the Government in 2014, that irrespective of increase in grade pay, the category within which the post falls, would not undergo an upward shift, as applicable across board.
6. Interim orders passed by the Court, go by the passing of the final order, thus, no vested right can be said to have accrued in favour of the appellant upon he having participated, on the strength thereof. Even if his plea were to be accepted at this stage, it may affect the seniority of many, who would have been selected through Register-A-II and Register-C for process years 2008, 2012, 2013 and onwards, and also granted further promotions. All those are not party-respondents before this Court. Also due to the foregoing intervening factors and afflux of time, the claim of the appellant is not redressable.
7. There is nothing pointed out that may have persuaded us to take a view different than the one of the learned Single Judge, which even as per the peculiar facts and circumstances of the case, warrants no interference.
8. The present appeal being sans merit, is accordingly dismissed.
9. Pending applications, if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

23.01.2024
ashok/gsv

Whether speaking / reasoned: YES / NO
Whether Reportable: YES / NO