



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

CWP No. 6900 of 2021 (O&M)

Date of Decision : 24.01.2025

Chand Singh

...Petitioner

Versus

The Punjab and Haryana High Court At Chandigarh and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parvinder Singh, Advocate for the petitioner.

Mr. Rajeev Anand, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the claim of the petitioner is for the grant of pay in the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 which was admissible to the post of Stenographer Grade-III, has been declined by modifying the appointment order of the petitioner.

2. Learned counsel for the petitioner submits that the petitioner competed for the post of Stenographer Grade-III and was ultimately selected and granted the appointment dated 11.05.2012 on ad-hoc basis in the Session Division of Shaheed Bhagat Singh Nagar in the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 + DA with the clear condition that the petitioner will be given the minimum of the pay scale along with Dearness Allowances. Learned counsel for the petitioner further submits that in a



totally illegal and arbitrary manner, the said appointment order was substituted by the respondents vide appointment order dated 02.12.2013 (Annexure R-3) to change the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 + DA to ₹5910 - ₹20200 + Grade Pay of ₹2800 + DA. Learned counsel also submits that on the date when the selection was made and appointment was ordered, the post of Stenographer Grade-III had already been granted the higher pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 w.e.f. 01.12.2011 onward, despite of the same the petitioner was granted lower pay scale, hence, on the date of the selection and appointment, the petitioner was entitled for the minimum of the Grade Pay i.e. ₹10300 - ₹34800 + Grade Pay of ₹3200 + DA instead of ₹5910 - ₹20200 + Grade Pay of ₹2800 + DA.

3. Upon notice of motion, the respondents have filed the reply, wherein, they have stated that though, initially the appointment was given to the petitioner in the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 but, the same was modified immediately to the pay scale of ₹5910 - ₹20200 + Grade Pay of ₹2800, which was admissible to the regular Stenographers as on 01.01.2012. Learned counsel for the respondents further submits that there is no challenge to the modification of the appointment order and, therefore, the claim to get the minimum of the pay scale as ₹10300 - ₹34800 + Grade Pay of ₹3200 instead of ₹5910 - ₹20200 + Grade Pay of ₹2800 along with DA may kindly be rejected.

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



5. Once, it is a conceded position that on the date i.e. 11.05.2012 when the petitioner was selected on the post of Stenographer Grade-III, the pay scale of the said post was ₹10300 - ₹34800 + Grade Pay of ₹3200, which was also granted to the petitioner, the revision of the appointment order so as to grant the un-revised pay scale of ₹5910 - ₹20200 + Grade Pay of ₹2800 was arbitrary and illegal and without any valid justification. Even if, the petitioner was appointed on ad-hoc basis, as per the judgment of the Hon'ble Supreme Court of India, in ***Civil Appeal No. 213 of 2013 titled as State of Punjab and others vs. Jagjit Singh and others***, decided on 26.10.2016, the petitioner is entitled for the minimum of the pay scale of the post against which the petitioner is working and the regular employees are being granted the pay. It is a conceded fact that as on 01.12.2013, the regular Stenographers Grade-III were getting the pay in the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 + DA.

6. That being so, the initial grant of the said pay scale to the petitioner offered appointment, copy of which has been appended as Annexure P-2, was perfectly valid and legal and substituting the same with appointment order dated 02.12.2013 (Annexure R-3) so as to reduce the pay scale to a lower grade to ₹5910 - ₹20200 + Grade Pay of ₹2800 is arbitrary and illegal and without any valid justification. Further, the respondents are liable to comply with the judgment of the Hon'ble Supreme Court of India, in ***Jagjit Singh's case (supra)*** according to which, the minimum of the pay scale is to be given even to the ad-hoc employees.

7. In the present case, the regular employees who were working on the post of Stenographer Grade-III were getting the pay scale of ₹10300 -



₹34800 + Grade Pay of ₹3200 hence, the minimum of the pay scale qua the petitioner comes to ₹10300 - ₹34800 + Grade Pay of ₹3200 and not ₹5910 - ₹20200 + Grade Pay of ₹2800, which was paid to them. The said action of the respondents is also arbitrary and illegal.

8. Learned counsel for the respondents has not been able to rebut that as per the judgment of the Hon'ble Supreme Court of India in **Jagjit Singh's case (supra)**, an employee working on a temporary basis/ad-hoc basis, who has been selected after due advertisement, is entitled for the minimum of the pay scale along with DA, hence, the action of the respondents in modifying the appointment order of the petitioner dated 02.12.2013 (Annexure P-2) with the order dated 02.12.2013 (Annexure R-3) is declared illegal. The petitioner will be entitled for the salary for the period he has worked as per the appointment order (Annexure P-2). Any arrears of the salary admissible to the petitioner as per the order Annexure P-2 be calculated by the respondents and the same be released to the petitioner within a period of eight weeks of the receipt of copy of this order.

9. The next question which arises is whether, on the arrears the petitioner will be entitled for interest or not.

10. As per the judgment of the Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense



rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

11. In the present case, the petitioner was rightly appointed in the pay scale of ₹10300 - ₹34800 + Grade Pay of ₹3200 vide Annexure P-2, hence, non-grant of the same by substituting the said appointment letter was arbitrary and illegal and the amount due to the petitioner under the appointment order (Annexure P-2) was retained by the respondents and used for their benefits, the petitioner will also be entitled for interest on the arrears admissible to the petitioner under this order @ 6% per annum from the date the petitioner was appointed till the actual arrears are paid to him.

12. Ordered be complied with within a period of eight weeks as stated above.

13. Petition is disposed of in above terms.

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

January 24, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No