



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

Sr. No.209

CWP No.5326 of 2005

Date of Decision: 04.02.2025

Ram Phal Yadav

.... Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: None for the petitioner.

Mr. Harish Nain, AAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the order dated 28.02.2005, Annexure P-4, whereby the increment given to the petitioner with effect from 02.04.1979 under Rule 7 of the Haryana Civil Services (Revised Scale of Pay) Rules, 1980 (for short, 'the 1980 Rules') has been withdrawn, and the recovery of excess amount paid to him has been ordered to be effected from his monthly pay with effect from February 2005.

2. As per facts apparent on record, in brief, the petitioner was appointed as Maths Master on *ad hoc* basis on 31.08.1974, and his service was regularised with effect from 01.01.1980. As per Rule 7 of the 1980 Rules, a senior employee whose pay has been fixed at the same stage as that of another employee in the same cadre who was getting lesser pay as compared to the former prior to 01.04.1979, is entitled to one additional increment with effect from 02.04.1979. In terms therewith, an additional increment was given to the petitioner at the time of fixation of his pay since pay of one Partap Singh, Science Master, had been fixed at the same stage as that of the petitioner on 01.04.1979 despite the fact that he was getting lesser pay prior of that date. The



same has been withdrawn vide impugned order, dated 28.02.2005, which is a non-speaking order and not maintainable.

2.1. At the time of issuing notice of motion on 01.04.2005, operation of the impugned order, dated 28.02.2005, was stayed by this Court. It is not disputed that during pendency of the petition, the petitioner had superannuated from service.

3. Learned State counsel has referred to the written statement filed on behalf of the respondents to contend that the impugned order withdrawing the increment was rightly passed since the benefit could not have been given on the basis of *ad hoc* service rendered by the petitioner.

4. Heard.

5. It remains undisputed on record that the petitioner was given the benefit of additional increment considering the same pay of another employee/Partap Singh, who was drawing lesser pay prior to 01.04.1979 as per Rule 7 of the 1980 Rules. It has been settled by a Division Bench of this Court in CWP No.720 of 1994 titled *Dharam Vir Garg v. The State of Haryana and others*, that the benefit of additional increment under Rule 7 already given to an employee cannot be withdrawn considering the *ad hoc* service of the other employee who is drawing lesser pay. Besides, the petitioner has already availed the benefit of additional increment during service and has retired on attaining the age of superannuation.

6. In view thereof, the petition is allowed and the impugned order, dated 28.02.2005, is set aside.

(TRIBHUVAN DAHIYA)
JUDGE

04.02.2025
Maninder

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