



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

CWP-3051-2014
Reserved on : 06.08.2025
Pronounced on : 29.08.2025

Sudarshan Kumar Sharma

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arjun Pratap Atma Ram, Advocate
for the petitioner.

Mr. Kanav Singla, AAG, Punjab.

Mr. Parambir Singh, Advocate
for respondent No.3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to pay the retiral benefits to the petitioner as detailed in chart (Annexure P-13) as if he had retired as Registrar (Births & Deaths). The petitioner further prays for issuance of a writ in the nature of *mandamus* directing the respondents to decide the representations of the petitioner (Annexures P-9 and P-10) in a timely manner.

FACTUAL BACKGROUND

2. The factual background of the case is that the petitioner was appointed as Sanitary Inspector in the Erstwhile Municipal Committee, Ludhiana on 04.12.1974 and on 08.08.1994, he was promoted as Superintendent Vaccination. Thereafter, the petitioner came to be appointed as Registrar (Births & Deaths) vide order dated 28.05.1997 (Annexure P-1). Thereafter, a notification dated 28.08.1998 (Annexure P-2) came to be issued



whereby the appointment of the petitioner as Registrar (Births & Deaths) was sought to be withdrawn and the same was challenged by the petitioner by way of filing **CWP No.14622 of 1998** before this Court. The petition was allowed and the notification dated 28.08.1998 was set aside. An opportunity of hearing was directed to be granted.

3. Thereafter, a show cause notice dated 16.01.2003 (Annexure P-3) was issued to the petitioner to which the petitioner filed his reply (Annexure P-4). The reply was found lacking and accordingly, the petitioner was sought to be reverted vide order dated 17.12.2004 (Annexure P-5). Consequently, the petitioner had filed **CWP No.837 of 2005** before this Court and sought quashing of show cause notice as well as orders whereby the notification (Annexure P-2) vide which the petitioner was appointed as Registrar (Births & Deaths) in Municipal Corporation, Ludhiana, has been withdrawn. On 14.01.2005, notice of motion was issued, order of reversion was stayed. Thereafter, the writ petition was admitted for regular hearing and came up for hearing on 21.02.2013. Ultimately, the writ petition was disposed of by a Division Bench of this Court vide order dated 21.02.2013 (Annexure P-8) by holding that since the petitioner continued to work as Registrar (Births & Deaths) on account of stay order and has even retired from the same post, retiral benefits, if not paid shall be released to him. The order of the Division Bench reads as under:

“Under the umbrella of the said stay orders, the petitioner continued to work as Registrar (Births & Deaths) and has since retired as well from that post on 31.12.2009 As the petitioner on account of stay order, continued to work as Registrar (Births & Deaths) and has even retired from that post, it is not necessary to go into the validity of the orders impugned in this petition.

Retiral benefits, if not paid, shall be released to the petitioner as if the petitioner had retired as Registrar (Births & Deaths). The writ



petition is, accordingly, disposed of.”

4. The petitioner submitted representations claiming retiral benefits and also sent reminders regarding the compliance of order of the Division Bench. However, due to non-compliance of the order, the petitioner was constrained to file **COCP No. 2649 of 2013** before this Court which was withdrawn with liberty (Annexure P-12).

CONTENTIONS

5. Learned counsel for the petitioner *inter alia* contends that the petitioner was lawfully appointed as Registrar (Births & Deaths) in the year 1997 and continued to hold the post until his retirement, protected by interim and final orders of the High Court. The attempt to withdraw his appointment and revert him was stayed by the Court, which ultimately directed that retiral benefits be released to the petitioner as if the petitioner had retired as Registrar (Births & Deaths). Despite this, the respondents have failed to comply with the direction of the Court. The withholding of retiral benefits is arbitrary, unjustified particularly when the petitioner has rendered continuous service and retired from the post under the protection of law.

6. On the other hand, learned counsel for the respondents submits that the petitioner is attempting to mislead this Court by seeking the grant of pay scale benefits as reflected in the self-prepared chart (Annexure P-13). It is pointed out that the pay scale indicated therein pertains to the post of Chief Registrar (Births & Death), whereas the petitioner was only discharging duties as Registrar (Births & Deaths), for which no independent pay scale exists. Under Section 320(2) of Chapter 16 of the Punjab Municipal Corporation Act, 1976 (in short ‘PMC Act, 1976’), it is within the discretion of the Municipal Commissioner to assign or delegate the functions of Registrar (Births & Deaths)



to any official, and such delegation does not carry with it entitlement to a higher pay scale.

7. It was further contended that the petitioner himself has admitted that, although he continued to perform the duties of Registrar (Births & Deaths), he drew the pay scale of Superintendent Grade II until his retirement. At no stage did the petitioner either protest or challenge the salary being paid to him in the said scale. As per official records, the petitioner has already been given all the monetary benefits of his original post of Superintendent Grade II and is getting pensionary benefits as per the said post. It was further argued that the competent authority has never issued any order granting the petitioner the pay scale claimed under Annexure P-8 of CWP No. 837-2005, and even the operative part of the Division Bench's order does not direct payment in terms of the said Annexure.

8. Learned counsel for the respondents submitted that the reference to Annexure P-8 in the communication dated 19.12.2016 was an inadvertent error, made without any *mala fide* intention. The error came to light when Respondent No. 3 pointed out that the audit branch had repeatedly raised objections regarding the absence of a fixed pay scale for the post of Registrar (Births & Deaths). Subsequently, the Government reconsidered the matter in its entirety and, by a detailed speaking order dated 22.11.2018, rejected the petitioner's claim for monetary benefits attached to the post of Registrar (Births & Deaths). It was specifically clarified therein that the petitioner was not entitled to such financial benefits even on the basis of his educational qualification as he had merely been entrusted with additional charge of the post to ensure smooth functioning of the department.

9. *Per Contra*, the learned counsel for the petitioner in his replication



has contended that the reliance on Section 320(2) of Chapter 16 of the PMC Act, 1976 is misplaced since the same was deleted from the Act vide notification dated 22.05.1979 (Annexure P-14). Rather, the appointment of the petitioner as Registrar (Births & Deaths) has been made under Section 7 of the Registration of Births and Deaths Act, 1969. Further, the learned counsel has brought to the attention of this Court earlier representations dated 25.10.2002, 19.09.2003, 23.02.2004 and 20.07.2004 (Annexure P-17) regarding the grant of pay scale as Registrar. The Commissioner of Municipal Corporation Ludhiana vide order dated 03.12.1999 (Annexure P-22) had directed that till a new post of Local Registrar has been created by the Government and an independent pay scale is sanctioned, the petitioner shall draw the pay salary at the pay scale of Superintendent Grade II.

OBSERVATIONS and ANALYSIS

10. Having heard learned counsel for the parties at length and upon a careful perusal of the record with their able assistance, it emerges that the petitioner while discharging the duties of Registrar (Births & Deaths) continued to draw the pay scale of Superintendent Grade II until his retirement since no independent pay scale was prescribed for the former post. The petitioner has already received all monetary benefits attached to the post of Superintendent Grade II and continues to draw pensionary benefits on that basis. Furthermore, **COCP No. 2649 of 2013**, filed by the petitioner, has since been withdrawn.

11. The petitioner, while serving as Superintending Vaccination, was assigned the post of Registrar (Births & Deaths) vide order dated 28.05.1997 (Annexure P-1). The said order is silent as to the pay scale attached to this post. This Court is of the view that the appointment of the petitioner was, at best, a stop-gap arrangement, and at no stage did the respondents indicate that he



would be entitled to the pay scale of a Registrar. It remains undisputed that no independent pay scale exists for the post of Registrar (Births & Deaths), and the petitioner had accepted the post without stipulating any condition for enhancement of pay. The appointment was merely an additional charge to ensure the smooth functioning of the department. Further, as noted above, the Commissioner, Municipal Corporation, Ludhiana, vide order dated 03.12.1999, directed that until a new post of Local Registrar is created by the Government and an independent pay scale is sanctioned, the petitioner shall draw salary in the pay scale of Superintendent Grade II.

12. According to the petitioner, his appointment post of Registrar (Births & Deaths) has been made under Section 7 of the Registration of Births and Deaths Act, 1969 as specifically pleaded in replication. Section 7 of the said Act reads as under:

“7. Registrars.— (1) The State Government may appoint a Registrar for each local area comprising the area within the jurisdiction of a municipality, panchayat or other local authority or any other area or a combination of any two or more of them:

Provided that the State Government may appoint in the case of a municipality, panchayat, or other local authority, any officer or other employee thereof as a Registrar.

(2) Every Registrar shall, without fee or reward, enter in the register maintained [electronically or otherwise,] for the purpose all information given to him under section 8 or section 9 [in respect of births and deaths which has taken place in his jurisdiction] and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

(3) Every Registrar shall have an office in the local area for which he is appointed.

(4) Every Registrar shall attend his office for the purpose of registering births and deaths on such days and at such hours as the Chief Registrar may direct and shall cause to be placed in some conspicuous place on or near the outer door of the office of the Registrar a board bearing, in the local language, his name with the addition of Registrar of Births and Deaths for the local area for which he is appointed, and the days and



hours of his attendance.

(5) The Registrar may, with the prior approval of the Chief Registrar, [appoint Sub-Registrars and, in the event of any disaster or epidemic, appoint Special Sub-Registrars] assign to them any or all of his powers and duties in relation to specified areas within his jurisdiction.

[Explanation.—For the purposes of this sub-section, the expressions, —

(i) “disaster” shall have the same meaning as assigned to it in clause (d) of section 2 of the Disaster Management Act, 2005 (53 of 2005);

(ii) “epidemic” means the epidemic referred to in the Epidemic Diseases Act, 1897 (3 of 1897).]”

13. The stand taken by Respondent no. 2 in their reply dated 15.09.2014 remains uncontroverted that all Registrars (Births and Deaths) are working as ex-officio Registrars with the State and there is no provision of extra payment for discharging the duties of Registrar under the Registration of Births and Deaths Act, 1969 as well as Punjab Registration of Births and Deaths Rule, 2004.

14. Further, the issue of entitlement of an officer who is merely asked to work on a higher post to the pay of the higher post, even while he continues to substantively hold the lower post, had come up for consideration before a Three-Judge Bench of the Hon’ble Supreme Court in ***Ramakant Shripad Sinai Advalpalkar v. Union of India, 1991 Supp (2) SCC 733***. The Court in Para 5 and 9 of the judgement held as follows:

*“5. The arrangements contemplated by this order plainly do not amount to a promotion of the appellant to the post of Treasurer. **The distinction between a situation where a government servant is promoted to a higher post and one where he is merely asked to discharge the duties of the higher post is too clear to require any reiteration. Asking an officer who substantively holds a lower post merely to discharge the duties of a higher post cannot be treated as a promotion. In such a case he does not get the salary of the higher post; but gets only what in service parlance is called a “charge allowance”. Such situations are contemplated where exigencies of public service necessitate such arrangements and even consideration of seniority do not enter into it. The person continues to hold his substantive lower post and only discharges the duties of the higher post essentially as a stop-gap***



arrangement.

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9. The third contention is that appellant's 'in-charge' arrangements in the higher post had continued for so long a period that a determination of equivalence on the basis of his lower substantive post would become arbitrary. **This contention ignores the fact that an 'in-charge' arrangement is not a recognition of or is necessarily based on seniority and that, therefore, no rights, 'equities or expectations could be built upon it.'** The third contention is also unmeritorious." (emphasis supplied)

CONCLUSION

15. The Division Bench by order dated 21.02.2013 (Annexure P-8) had directed that the petitioner be granted retiral benefits *as if he had retired from the post of Registrar (Births and Deaths)*. As noted earlier, the petitioner while discharging the duties of Registrar (Births and Deaths) drew the pay scale of Superintendent Grade II until his retirement as no pay scale exists for the former post. The appointment order also contained no stipulation regarding the pay scale of the petitioner. Since the petitioner has already received all monetary benefits attached to the post of Superintendent Grade II and continues to draw pensionary benefits on that basis, this Court is of the opinion that the petitioner has duly received the benefits that were due to him.

16. In view of the foregoing discussion, the petitioner is not entitled to the relief as prayed for and the petition deserves to be dismissed. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

29.08.2025

Neha

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