



CWP-27163-2023

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

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CWP-27163-2023 (O & M)
Date of decision: 23.01.2025

Sushil Kumar and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. K.S.Dadwal, Advocate,
for the petitioners.

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to grant the salary to the petitioners for the period they worked on the post of Joint Director, based on additional charge granted to them, vide orders dated 05.10.2020 and 23.11.2021 (Annexures P-1 and P-3).

2. Learned counsel submits that case of the petitioners is squarely covered by the judgment passed in **Dr. Mangal Singh Sandhu vs. State of Punjab and others**, CWP-20576-2015, decided on 05.07.2013, which learned State counsel despite his best efforts has not been able to controvert regards factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, the relevant paras whereof read thus:-



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5. I have considered the submissions.
6. Rule 4.4 (c) of the Punjab Civil Services Rules provide as under:

“(c) (i) Notwithstanding anything contained in these rules, where a Government employee holding a post in a temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above his pay drawn by him in the lower post provided it is certified by the Head of the Department in which the Government employee was holding the lower post that he would have continued to officiate in the lower post but for his promotion/appointment to the higher post:

Provided that if a Government employee either – (a) has previously held substantively or officiated in – (i) the same post, or (ii) a permanent or temporary post on the same time-scale, or (iii) a permanent post other than a tenure post, or a temporary post (including a post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Government) on an identical time-scale ; or (b) is appointed substantively to a tenure post on a time-scale identical with that of another tenure post which he has previously held substantively or in which he has previously officiated ; then proviso to rule 4.4 (b) shall apply in the matter of the initial fixation of pay and counting of previous service for increment. (ii) The provisions of sub-rule 2 of rule 4.14 shall also be applicable in any case where the initial pay is fixed under this clause. In cases, where a Government employee is, immediately before his promotion or appointment to a higher post, drawing pay at the maximum of the time scale of the lower post, his initial pay in the time scale of the higher post shall be fixed in the same manner as provided in sub-clause (1) above.”

7. The aforesaid is a non-obstante clause and would have to be read independently of Rule 4.4 which lays down the Rules regarding fixation of initial pay. The Rule thus allows salary in the time scale of the higher post if the person has worked in temporary or officiating capacity.



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8. Since the petitioner was admittedly working on a higher post of Director and which carried duties and responsibilities of greater importance than those attached to the post originally held by him, he was entitled to be given the said benefit of higher post pay scale.

9. In view of above, the claim of the petitioner is found to be made out in terms of Rule (supra).

10. Accordingly, this Writ Petition is partly allowed to the aforesaid extent and it is directed that the respondent shall fix the petitioner's pay on the higher post of Director Agriculture and release his salary accordingly for the period from the date he was given charge of the post of Director till he retired.

11. Consequential benefits shall also follow.”

3. In view of the above, the present petition is disposed of in terms of **Dr. Mangal Singh Sandhu**(supra), with a direction to release the amount due within a period of three months.

23.01.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No