

2026.PHHC.040823



203.

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

CWP-14491-2001 (O&M)

Date of decision: 16.03.2026

Sawarnjit Kaur

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: None for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CM-26179-2001

Application seeking exemption from filing certified copy of Annexures P-1 to P-13, is allowed as prayed for.

CWP-14491-2001

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing the letter/order dated 28.08.2001 (Annexure P-13), issued by respondent No.2 and further endorsed by respondent No.3, vide which, the petitioner has been ordered to be relieved from the post of Staff Nurse and to collect the posting order against the post of ANM (Auxiliary Nurse Midwife). Further, a writ in the nature of mandamus has been sought directing the respondents to grant regular pay scale of Rs.5800-9200 to the petitioner w.e.f. 24.05.1994 i.e. from the date when she was posted as Staff

Nurse and to pay the arrears along with interest @ 18% per annum, from the date when it becomes due till its realization.

2. Briefly stated, the facts of the case are that the petitioner was appointed as Auxiliary Nurse Midwife (ANM) on 20.12.1984 and after completing the course of Staff Nurse, she was adjusted against the post of Staff Nurse, in her own pay scale, vide order dated 24.03.1994 (Annexure P-6). Thereafter, she was relieved from the said post and reverted to the post of ANM, vide order dated 28.08.2001 (Annexure P-13) and was directed to join as ANM on 12.09.2001.

2.1 The claim raised by the petitioner in the present petition is that since she performed the duties of the post of Staff Nurse w.e.f. 24.03.1994 till 12.09.2001 i.e. a period of more than seven years, therefore, she is entitled for the grant of pay and allowances of the said post.

3. In the written statement filed on behalf of respondents No.1 to 3, the said fact has not been disputed.

4. I have heard learned counsel for the parties and perused the relevant documents.

5. Keeping in view the above, the petitioner, who had admittedly performed the duties of the higher post of Staff Nurse from 24.03.1994 till 12.09.2001, cannot be denied the pay and allowances of the said post. The similar issue has already been considered by this Court in '***Sukhpreet Singh and others Vs. Punjab State Power Corporation Limited and others***' 2024 NCPHHC 9924, wherein it has been held as under :-

“xx xx xx xx xx

8. *The petitioners, who were working as Assistant Accounts Officers, have been posted against the posts of Accounts Officers after they had rendered service of more than 05 years as Assistant Accounts Officers. Once the petitioners have performed the duties of the posts of Accounts Officers, they cannot be denied the pay scale of the said post. The condition that the petitioners shall be placed in their own pay scale of Assistant Accounts Officer without any financial benefit is totally arbitrary and not sustainable.*

9. *The Hon'ble Supreme Court in its judgment passed in **Smt. P. Grover's case (supra)** has held that the officer promoted to higher post on acting basis is entitled to salary of such higher post. The relevant para of the said judgment reads as under :-*

“3. We mentioned that she was promoted as an acting District Education officer with effect from July 19, 1976. The order of promotion contained a super-added condition that she would draw her own pay scale which apparently meant that she would continue to draw her salary on her pay scale prior to promotion. The initial order extending her services recited that she was an acting District Education Officer, but contained a super-added condition that her pay would not be more than the maximum of the Principal's grade. Smt. Grover claims that having been promoted as District Education officer, she was entitled to the pay of a District Education officer and there was no justification for denying the same to her. A writ petition filed by her was dismissed by the High Court of Punjab and Haryana and she is before us by way of special leave under Art. 136 of the Constitution. The counter-affidavit filed on behalf of the Government of Haryana offers no rational

explanation for denying the pay of District Education Officer to Smt. P. Grover after she was promoted to act as District Education officer. All that was said in the counter-affidavit was that there were no Class-I post available and therefore, she was not entitled to be paid the salary of District Education officer. We are unable to understand the reason given in the counter- affidavit. She was promoted to the post of District Education officer, a Class-I post, on an acting basis. Our attention was not invited to any rule which provides that promotion on an acting basis would not entitle the officer promoted to the pay of the post. In the absence of any rule justifying such refusal to pay to an officer promoted to a higher post the salary of such higher post (the validity of such a rule would be doubtful if it existed), we must hold that Smt. Grover is entitled to be paid the salary of a District Education officer from the date she was promoted to the post, that is, July 19, 1976, until she retired from service on August 31, 1980. The appeal is accordingly allowed with costs.”

10. *To the same effect is the judgment of the Hon’ble Supreme Court in **Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma: 1998 AIR (SC) 2909**. In the said case the employee was promoted as Junior Engineer-I in stop-gap arrangement and he had given the undertaking that on the basis of stop-gap arrangement, he would not claim promotion as of right nor would he claim any benefit pertaining to that post. The said argument was rejected by Hon’ble Supreme Court and it was held that the Government being model employer cannot be permitted to make such an argument.*

11. Similarly in the case of ***Selva Raj Vs. Lt. Governor of Island, Port Blair: 1999(2) S.C.T. 286*** the employee looked after the duties of higher post and he worked though temporarily and in an officiating capacity, however, it was held that he was entitled to draw salary attached to the higher post during the time he actually worked on that post. To the same effect are the judgments passed in ***State of Punjab and another Vs. Dharam Pal : 2017 AIR SC 4438; Gurmej Singh Vs. State of Punjab : 1995 (3) S.C.T. 279; Balbir Singh Dalal and others Vs. State of Haryana and another: 2002(4) S.C.T. 422 and Pritam Singh Dhaliwal Vs. State of Punjab and another: 2004(6) SLR 758.***

12. In view of the above factual position and the law laid down in the abovesaid judgments, the present petition is allowed and the respondents are directed to release the pay and allowances of the post of Accounts Officers w.e.f. the date the petitioners have assumed the charge of Accounts Officers, with all consequential benefits within a period of three months from the date of receipt of certified copy of this order.”

6. The abovesaid judgment has been upheld by the Hon’ble Division Bench of this Court in ***L.P.A. No.1061 of 2024 titled as ‘Punjab State Power Corporation Limited, Patiala Vs. Sukhpreet Singh and others’ decided on 30.04.2024***, by recording the following findings:-

“XX XX XX XX XX

2. The learned Single Judge while allowing the writ petition had granted the benefit of pay and allowances of the higher post of Accounts Officer from the date the writ petitioners assumed the charge as such with all consequential benefits which were payable within a period of three months. The reliance by the learned Single Judge as such was upon the

various judgements of the Apex Court as well as this Court which hold the field. The said judgements read as under:-

“State of Punjab and another Vs. Dharam Pal: 2017(4)S.C.T. 460; Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma : 1998(3) S.C.T. 90; Selva Raj Vs. Lt. Governor of Island, Port Blair : 1999 (2) S.C.T. 286; Smt. P. Grover Vs. State of Haryana : 1983(4) SCC 291; Pritam Singh Dhaliwal Vs. State of Punjab and another : 2004(4) S.C.T. 403; Balbir Singh Dalal and others Vs. State of Haryana and another : 2002(4) S.C.T. 422 and Gurmej Singh Vs. State of Punjab : 1995(3) S.C.T. 279.”

3. *Learned counsel for the appellant has tried to convince us that the writ petitioners were estopped as such since their posting orders specifically said that they would be working on their own pay scale without any financial benefits and, therefore, having accepted the said posting orders way-back in 2013, they could not agitate for their grievances.*

4. *We are not convinced with the said argument. It is settled principle that the employer is always in a position of dominance and, therefore, merely because the said incorporation had been made in the order as such would not estop the writ petitioners from seeking their legal rights as such. Having taken the work and the responsibility of a higher post, the model employer should have gracefully acceded to the request and the demand of the higher pay/emoluments for the post which they held charge. It is also not disputed that thereafter they have also earned their promotions to the said post and in such circumstances once having the requisite qualifications also there was no escape for the appellant, but to dole out the necessary financial benefits.*

5. *The Full Bench judgement of this Court in **Subhash Chander Vs State of Haryana and others**, 2012(1) RSJ 442 also granted the said benefit as such that if the additional charge is given then the higher pay attached to the higher post for additional work involving higher responsibilities deserves to be paid. The above well settled legal proposition is being consistently followed till date. Reference is made to another judgment of the coordinate Bench in **Pritam Singh Dhaliwal vs. State of Punjab and another**, (2004) 6 SLR 758 (DB). In the said case, higher pay had been claimed for having performed the duties of Deputy Director of Panchayat/Additional Deputy Commissioner (Development) from time to time pursuant to the orders passed by the Government while holding a lower substantive post i.e. District Development and Panchayat Officer. It was held therein that if a person is asked to perform the duties regularly though in officiating capacity or on current duty charge or as a temporary measure, the said person would be entitled to the higher pay i.e. the pay which is payable while performing the duties in higher/promotional post. In the said case also, the petitioner therein had continued to work on the higher post in officiating capacity till his superannuation.*

6. *Reference can also be made to the judgement by another coordinate Bench passed in LPA-1491-2016, titled **State of Haryana vs. Sita Ram**, decided on 27.11.2019, wherein the issue was of holding current duty charge of the post of BDPO in the pay-scale of Social Education and Panchayat Officer. The incumbent in that case continued working as such on the higher post on current duty charge, but was paid the salary of Social Education and Panchayat Officer, his substantive post. After considering and applying the ratio and dictum of the judgments of the Apex Court in **Arindam Chattopadhyay vs.***

State of W.B., (2013) 4 SCC 152 and State of Punjab vs. Dharam Pal, (2017) 9 SCC 395, the Division Bench declined to exercise jurisdiction against challenge to the writ petition having been allowed, whereby the petitioner therein was held entitled to the salary for the higher post for the period he held current duty charge.

7. *It is never the case as such that the writ petitioners were ineligible for promotion to the said post and rather it has been averred that they would be considered for regular promotion as per their eligibility and seniority. In such circumstances, we are of the considered opinion that the judgement of the learned Single Judge as such does not suffer from any infirmity which would warrant interference.*

8. *The appeal being meritless, accordingly, stands dismissed.”*

7. In view of the above factual position and the law laid down in the abovesaid judgments, the present petition is allowed. The respondents are directed to grant the pay and allowances of the post of Staff Nurse to the petitioner, from 24.03.1994 to 12.09.2001 and the necessary consequential benefits shall be released to her, within a period of 3 months, from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

16.03.2026
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No