



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

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CWP-20439-2022Date of Decision: **21.04.2026**

Amrit Lal Sharma

.....Petitioner

VERSUS

State Of Haryana And Another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Kshitij Sharma, Senior Advocate with
Mr. Tamanna Banwala, Advocate
for the petitioner.

Mr. Chirag Wadhwa, DAG, Haryana-State.

None for respondent No.2.

HARPREET SINGH BRAR, J. (Oral)

1. This Civil Writ Petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *Certiorari* for quashing the order dated 15.12.2020 (Annexure P-27), being illegal, arbitrary, discriminatory, violative of the principles of natural justice, non-speaking and passed without application of mind; and for issuance of a writ in the nature of *Mandamus* directing the official respondents to count the period of service rendered by the petitioner from 1996 to 2007 and to



consider his case for consequential benefits, including promotion to the post of Assistant w.e.f. the due date and thereafter to the posts of Deputy Superintendent, Superintendent and Under Secretary, along with all consequential monetary benefits such as upgradation of pay, increments, etc., and release of arrears along with interest and further to pass appropriate directions to the official respondents to consider and decide the representations submitted by the petitioner by passing a reasoned and speaking order in accordance with law.

2. On 17.01.2023, following order was passed:-

“Learned counsel for the petitioner contends that the petitioner was appointed as Lower Division Clerk (field) on adhoc basis on 25.08.1982. His services were regularized on the said post w.e.f. 01.09.1984. Thereafter, the petitioner participated in the Departmental Accounts Examination for ministerial establishment on 15.12.1995 and successfully passed the same. Thereafter, the petitioner was promoted to the post of Upper Division Clerk (field) on 22.05.1996. In the year 1999, the petitioner was deputed in Bhakra Beas Management Board and on the option of the petitioner, his cadre was changed from field office to head office on 20.08.2007. The petitioner had joined the said cadre as Upper Division Clerk (head quarter) on 24.08.2007 and thereafter he was promoted to the post of Assistant (head quarter) on



06.09.2010. The petitioner had retired on 30.08.2020.

The grievance of the petitioner is that the service rendered by the petitioner in the Field Cadre has not been considered for the purpose of computing his total length of service towards seniority and other benefits.

Notice of motion returnable on 18.07.2023.”

3. Service was complete on 18.07.2023 and respondent No.2 had sought time to file reply. Thereafter, on 05.10.2023, learned State counsel sought time to file reply. Same request was made on 14.02.2024. Today, there is no representation on behalf of respondent No.2. However, written statement filed on behalf of respondent No.2 is available, which is taken on record. In the said written statement, it has been mentioned that petitioner was appointed as LDC on ad hoc basis in the Field Cadre vide office order No.106/EB-51/C dated 25.08.1982. Thereafter, his services were regularized as LDC in Field Cadre w.e.f. 01.09.1984 vide office order No.60 dated 03.02.1987. The written statement also mentions that the petitioner has concealed material facts from this Court.

4. The erstwhile Haryana State Electricity Board (HSEB) had two clerical cadres i.e. Head Office Cadre and Circle Cadre (Field Cadre). The seniority in both cadres is taken differently. In terms of the policy instructions dated 25.08.1987 (Annexure R-1), it was provided that for



change of cadre, the minimum length of service should be ten years. The relevant extract of which is as under:-

“(i) Pay scale of the post (s) should be identical.

(ii) The candidate must fulfill minimum qualifications prescribed for the post to which the employee desires to change over.

(iii) The work and conduct of the official should be satisfactory for the last 10 years.

(iv) The minimum length of service, before allowing change of cadre, should be ten years.

(v) In the event of change of cadre, the employee will have to forego all the Special Allowances attached with the previous post (s) from where he is seeking switch-over which are otherwise not allowed in the new cadre post (s).

(vi) The employee will be placed at the tail end of the seniority list of the cadre to which he switches over.

Thereafter objections were raised by some officials which was decided/ clarified vide memo No. Ch-37/NGE/G-541/L dated 16.05.1988, (Annexure R-2). The relevant extract of the instructions/clarification is reads as under:-

(iii) Whether the period of 10 years will include the period of adhoc/ work-charged/daily wages etc. or not? No., only regular service of 10 years will be countable.

(iv) Whether the period of 10 years will include the total service rendered by the official in any capacity or the service rendered by the official in a post or a grade?

The Change of Cadre will be allowed on initial appointment after completing 10 year service. Besides, the



change of cadre will be permissible only to the categories which the employee intends switchover, if explicit provision of direct to recruitment exists in the relevant service rules.

(V) Whether an official belonging to Circle Cadre can opt for Head Office Cadre or vice-versa.

The change of cadre from Circle Cadre to Head Office Cadre and vice versa will not be allowed.”

5. Further, a clarification was issued vide instructions dated 16.05.1988 (Annexure R-2) to the extent that only regular service of ten years would be counted and not the ad hoc period for change of cadre. It is further discernible that the petitioner had applied for the change of his cadre from field to Head Office on 11.02.1987 and thereafter, in the year 1992. Both the requests were rejected on the ground that the petitioner did not fulfil the condition of having ten years of regular service. Yet again, the petitioner applied for change of cadre in the year 1996 and on 27.02.2004, on the ground that his wife is under treatment. His request for the same was considered and not accepted as an embargo was placed on inter-cadre change vide office memo dated 30.10.1995. It is further discernible from the written statement that the petitioner applied for change of his cadre for the last time in the year 2007 and submitted an affidavit, copy of which is available as (Annexures R-6 & R-7). A perusal of the said affidavits (Annexures R-6 & R-7) clearly indicates that the petitioner has undertaken to not seek repatriation to the Field Cadre and has no objection if he is placed at the tail end of the seniority list of the UDC's born of Head Office



Cadre in the event of his request for change of cadre being accepted. He has also undertaken to forego all the special allowances attached with the post of UDC (Field Cadre) which are otherwise not allowed in the new Head Office Cadre. Subsequently, the request of the petitioner was accepted vide office order No.121/NGE/G-1157/UDC/LDC/MR/VI-II dated 20.08.2007 (Annexure R-8) on the following conditions:-

“i) That he will have no claim to come back from Head Office to Field Cadre under any circumstances.

ii) that he will have no claim of seniority as UDC in Field Cadre and will be placed at the tail end of the seniority list of UDC (in the Head Office Cadre).

iii) That he will have to forego all the Special Allowances/other benefits attached with the post of UDC (Field Cadre) which are otherwise not allowed in the Head Office Cadre post.”

Accordingly, the petitioner joined in Head Office Cadre on 24.08.2007 as UDC (Head Office). Thereafter the petitioner was promoted from UDC (HO) to Assistant (HO) vide office order No. 471/NGE/G-368/Vol.X dated 6.9.2010, copy of which is annexed as Annexure R-9.”

6. Learned Senior counsel for the petitioner further submits that the petitioner had earlier approached this Court by filing CWP-26850-2016 tilted as ***Amrit Lal Sharma vs. State of Haryana & Ors.***, and has been actively agitating his claim since long. He refers to the table at page No.123 of the paperbook and submits that respondent No.2 has indulged in cherry-picking as the claim of the petitioner was kept in abeyance and rejected



repeatedly whereas, his juniors in the Field Cadre were shifted to Head Office Cadre during the subsistence of the same rules which were applied to deny the claim of the petitioner. In doing so, respondent No.2 has allowed his juniors to unjustly steal a march over the petitioner.

7. Furthermore, para No.4 of the written statement reveals that the petitioner made a representation dated 06.06.2016 to allow him to change his cadre w.e.f. 19.09.1999 instead of 2007, as discernible from Annexure R-10. The same was considered and not found feasible for acceptance on the ground of delay and laches as the petitioner had sought review/reconsideration after a gap of 20 years as discernible from Annexure R-11.

8. Moreover, in the earlier round of litigation when the petitioner filed CWP-26850-2016 (supra), this Court vide order dated 12.02.2020 disposed of the writ petition with a direction to the respondent to pass a fresh order in accordance with law as discernible from Annexure R-12. In purported compliance, respondent No.2 passed a speaking order rejecting the claim of the petitioner with respect to change of cadre retrospectively as it was not found feasible for acceptance, as discernible from Annexure R-13.

9. Para No.7 and 8 further indicates that the petitioner had escalated the matter by filing COCP-2196-2020, which was disposed of on 01.12.2020 with a direction to pass fresh speaking order after compliance with the principle of natural justice. In compliance thereof, the petitioner was given an opportunity of hearing and after taking into consideration the



facts on record and relevant rules, a fresh speaking order was passed on 15.12.2020 as discernible from Annexure R-15.

10. Having heard learned counsel for the petitioner and respondent No.1 and after perusing the written statement filed by respondent No.2, it transpires that the request for change of petitioner's cadre from Field Cadre to Head Office Cadre was accepted on 20.08.2007 (Annexure R-8). However, certain condition(s) were imposed on the petitioner forbidding him to claim repatriation to the Field Cadre under any circumstance(s) or seniority as UDC in Field Cadre. It was also agreed that he will be placed at the tail end of the seniority list of UDC in the Head Office Cadre. Further, the petitioner has also undertaken to forego all the special allowances and other benefits attached with the post of UDC (Field Cadre), which is otherwise not permissible in the Head Office Cadre post.

11. Admittedly, the petitioner joined in the Head Office Cadre on 24.08.2007 and for the first time he agitated his claims by filing CWP-26850-2016. As such, it is evident that the petitioner remained indolent for nine years. Thus, the argument that some of the juniors had been brought to the cadre of Head Office while the case of the petitioner was kept pending, is of no consequence as the Constitution does not propagate the idea of negative equality. A two Judge bench of the Hon'ble Supreme Court in *State of Orissa vs. Mamata Mohanty (2011)3 SCC*, speaking through Dr. Justice B.S. Chauhan, held as follows:

"It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage



negative equality. Thus, even if some other similarly situated persons have been granted some benefit inadvertently or by mistake, such order does not confer any legal right on the petitioner to get the same relief. [Vide State (UT of Chandigarh) v. Jagjit Singh; Yogesh Kumar v. State (NCT of Delhi); Anand Buttons Ltd. v. State of Haryana; K.K.Bhatia v. State of M.P.; Krishan Bhatt v. State of J & K; State of Bihar v. Upendra Narayan Singh; Union of India v. Kartick Chandra Mondal.]"

10. Similarly the Hon'ble Supreme Court in *Union of India v. M. K. Sarkar*, (2010)2 SCC 59 has laid down that "Article 14 is a positive concept and cannot be enforced in a negative manner. Irregularity and illegality cannot be perpetuated on the ground that illegal benefits have been extended to others". Thus, if some similarly situated persons have been granted some benefit by mistake, such an order does not confer any legal right on the petitioner to stake claim. ..."

(emphasis added)

12. In view of the facts peculiar and circumstances of the present case, the present petition is dismissed being bereft of merit. However, with no order as to costs.

13. Pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.04.2026

Parul Verma

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No