

(2013) 07 P&H CK 0835

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 16740 of 2001 (O and M)

Bhal Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: July 30, 2013

Hon'ble Judges: Rajiv Narain Raina, J

Bench: Single Bench

Advocate: Ram Niwas Sharma, for the Appellant; Harish Rathee, D.A.G., for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Narain Raina, J.

The claim, in this petition, is by an Assistant Turner serving in Haryana Roadways, Jind Depot at the time of presentation of the writ petition in the year 2001. The complaint is that the petitioner has been denied the pay scale of Rs. 480-760 with effect from 1.2.1981 vide impugned order dated 12.5.2000. The first appointment of the petitioner to Government service on 15.12.1976 as an Assistant Turner was made in the pay scale of Rs. 100-160. The pay scale of Rs. 480-760 was given only to those employees who were in the pay scale of Rs. 120-250 and 140-250. The claim is based on the ground that the petitioner is a matriculate with 2 years ITI certificate in the trade and has been discharging the duties of technical nature. The petitioner actually wants that his initial scale of Rs. 100-160 should be treated as Rs. 120-250 and 140-250 (unrevised). By this logic, he claims the benefit of further revision in pay scale of Rs. 1200-2040 with effect from 1.1.1986 which is the corresponding scale to scale revision from Rs. 480-760. He claims that such benefit should be given with consequential benefits of Assured Career Progression Scheme as notified by Haryana Government on 7.1.1988 after completion of 20 years of regular and satisfactory service as on 15.12.1986. The petitioner's entry into service was through the employment exchange. He came to be appointed vide order dated 15.10.1986 (P-2) as Assistant Turner/Assistant Tyreman in the pay scale of Rs. 100-4-140-5-160

with effect from 1.12.1986 on purely temporary basis for a period of 6 months. Their services were liable to be terminated any time without prior notice. The appointment order was issued by the General Manager, Haryana Roadways, Hisar.

2. In response to the writ petition, the respondents have contested the case by filing a written statement. The defence taken is that the minimum educational qualifications laid down for the post of Assistant Turner was not matriculate with 2 years ITI certificate. If the petitioner was over qualified for appointment, then there is no provision in law, on the basis of which, the petitioner would be entitled to pay scale of posts, for which, the minimum educational qualifications laid down was matriculate with 2 years ITI certificate. The revision of pay scale for technical posts apply only where the pre-revised scale was Rs. 120-240 and Rs. 140-240. The petitioner having been appointed in the pay scale of Rs. 100-160 and having accepted this position from 1976, cannot claim higher pay scale or revision to bring his pay scale at Rs. 480-760 (unrevised).

3. Mr. Ram Niwas Sharma, learned counsel appearing for the petitioner relies on an order dated 30.3.1992 (P-3) which deals with the subject of revision of pay scales. This decision of Government of Haryana was taken with the view to re-construct the standard pay scale with effect from 1.4.1979. A table was inserted in the circular which appears thus:

4. The petitioner specifically relies on para 3 of the Annexure to the circular which reads thus:-

5. Therefore, only such technical posts, for which, the minimum educational qualification prescribed is Matric with 2 years ITI certificate were revised from 120-240 to 460-600 and then 480-760.

6. Mr. Harish Rathee, learned Sr. DAG, Haryana appearing for the State refers to page 629 of the Haryana Government Notification dated 29.2.1980 promulgating the Haryana Civil Services (Revised Scale of Pay) Rules, 1980 where the posts in the Transport Department, Haryana have been dealt with. Entry 10 in the column of the Transport Department reads as follows:-

7. The pay scale prescribed for Assistant Fitter, Assistant Turner, Assistant Tyreman etc. have been fixed at Rs. 100-160 (existing pay scale) and Rs. 350-500 (as the revised pay scales). Therefore, the pay scale which of Rs. 100-160 on pay revision from scale to scale in 1988 was Rs. 350-500, which the petitioner got. The petitioner's claim for grant of pay scale of Rs. 480-760 (revised) based on extra qualifications earned before appointment but beyond the prescribed pay scale of the post is not legally tenable. For the foregoing reasons, there is no merit in the this petition which fails and is dismissed.