
(2013) 11 P&H CK 0159
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12073 of 2013

Anil Kumar

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Citation : (2013) 11 P&H CK 0159

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : P.K. Goklaney, for the Appellant; Aman Bahri, Additional Advocate General, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Tejinder Singh Dhindsa, J.—The petitioner, who is serving as A.C. Mechanic in the office of Sub Divisional Engineer, Water Supply and Sanitation, Sub Division No. 3, Chandigarh, has filed the instant writ petition questioning the action of the respondent-authorities in denying to him the pay scale of Rs. 140-300 with effect from the date of his initially joining service. Facts, in brief, that would require notice are that the Pay Commission in its report submitted in 1968 had made certain recommendations linking the educational qualifications to the pay scales. Various categories of employees had been carved out in such recommendations and the petitioner fell in category IV i.e. employees having qualification of Matriculation with two years Technical Training in ITI or any other recognized Institute. Employees identically situated approached this Court by filing Civil Writ Petition No. 10759 of 1990 "Rajender Paul Gautam and others v. State of Punjab and others" praying for the issuance of directions to grant to them the revised pay scales as per recommendations made by the various Pay Commissions with regard to skilled and semi-skilled staff in service of the Punjab Government. Such writ petition came to be allowed in the following terms vide judgment dated 30.5.2008:

In view of the above, the writ petition is allowed. The petitioners who have

qualifications of ITI of two years diploma course with matriculation and have been working on the post of Pump Operators are held entitled to the pay scale of Rs. 140-300 w.e.f. the date they have joined the service. Their pay shall be fixed in the scale of Rs. 140-300 from the aforementioned date but the arrears would be restricted to a period of 38 months preceding the date of filing of the petition which has been filed on 8.8.1990. We make it clear that those petitioners who do not possess the qualification of two years ITI diploma course and matriculation would not be entitled to the aforementioned relief.

2. LPA No. 44 of 2009 preferred by the State of Punjab against the judgment rendered by the learned Single Judge was dismissed on 15.2.2010 and thereafter the judgment was affirmed upto the Hon"ble Supreme Court.

3. It so transpires that vide order dated 21.2.2012 even the petitioner was granted the scale of Rs. 140-300 with effect from the initial date of joining service but on a notional basis.

4. The instant writ petition has been filed impugning the order dated 3.5.2012 at Annexure P7 whereby the order dated 21.2.2012 granting to the petitioner the financial benefit in the light of the judgment rendered in Rajender Paul Gautam (supra) has been cancelled.

5. Even though the impugned order does not contain any reasons as regards denial of benefit to the petitioner of the scale of Rs. 140-300 is concerned, yet learned State counsel would join issue to submit that such scale of Rs. 140-300 was admissible only qua such category for employees who possessed the qualification of Matriculation as also two years ITI diploma course. State action is sought to be justified by taking a stand that the petitioner even though a Matriculate has an ITI diploma course of only one year duration and as such, his claim is not covered under the judgment dated 30.5.2008 rendered in Rajender Paul Gautam (supra).

6. Having heard learned counsel for the parties at length, I am of the considered view that the claim of the petitioner as regards grant of scale of Rs. 140-300 with effect from his initial date of joining service requires re-consideration.

7. Placed on record at Annexure P9 is a communication dated 20.9.2012 issued by the Government of India, Ministry of Labour and Employment, Directorate General of Employment & Training in terms of which it has been clarified that prior to 1975, the duration of Refrigeration and Air Conditioning mechanic trade was of one year and, subsequently, the syllabus stands revised and the duration of training has been enhanced from one year to two years. It is further clarified that the National Trade Certificate awarded to the candidates prior to and after revision of syllabus carries the same recognition for purposes of recruitment to subordinate posts and services under the Central Government. Learned counsel for the petitioner has also placed reliance upon the National Trade Certificate possessed by the petitioner and issued by the concerned ITI Rajpura and placed on record at Annexure P2 which shows his period of training to be from August

1974 to July 1975.

8. Such aspect of the Trade Certificate possessed by the petitioner of one year duration and done prior to 1975 and carrying the same recognition has not even been gone into by the respondent-authorities while passing the impugned order dated 3.5.2012 at Annexure P7. Rather such impugned order is totally non-speaking and bereft of any reasoning. The order dated 3.5.2012, as such, cannot sustain.

9. There is another ground which weighs with this Court to intervene in the matter. The office order dated 21.2.2012 having been issued in favour of the petitioner could not have been cancelled by the respondent-authorities without issuance of a show cause notice or grant of an opportunity of hearing. The order dated 3.5.2012 is in violation of the principles of natural justice.

10. For the reasons recorded above, the writ petition is allowed. Order dated 3.5.2012, Annexure P7, is quashed. The matter is remanded back to the respondent-authorities/competent authority to re-examine the issue and pass an order afresh after taking into consideration the documents appended at Annexures P2, P8 as also P9. Suffice it to observe that such exercise of reconsideration be completed within a period of two months from the date of receipt of a copy of this order and the final order to be passed would be a well-reasoned and speaking one. Writ petition allowed in the aforesaid terms.