
(2025) 02 P&H CK 1282
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 404 of 2019

Bachan Lal since deceased through his Lrs. and others	APPELLANT
Vs	
District and Sessions Judge, Faridkot and others	RESPONDENT

Date of Decision : 21-02-2025

Acts Referred:

Citation : (2025) 02 P&H CK 1282

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Surinder Garg, Puja Chopra

Final Decision : Allowed

Judgement

Harsimran Singh Sethi, J

1. In the present petition, the grievance of the petitioner is that the petitioner (since deceased) had actually worked on the post of Reader and discharged the duties thereof but, he was not given the salary by respondent-employer of the post, which he was discharging the duties of, on the ground that the petitioner's (since deceased) substantive rank remained that of Assistant on which post he was promoted in the year 1993 though the actual fact is that on current duty charge basis, he was asked to discharge the duties of the higher post of the Reader. Thus, in the present petition, it is the prayer of the petitioner that he be given the salary that he is entitled to.
2. Learned counsel for the petitioner submits that the benefit envisaged under Shetty Pay Commission has not been extended to him while the petitioner was working on the post of Reader as at that time he was being paid his salary only qua the post of Assistant, which is arbitrary and illegal.
3. Upon notice of motion, the respondents have appeared and filed the reply, wherein, the respondents have stated that the petitioner was never promoted to the post of 'Reader' substantively before his date of retirement i.e. 31.03.2008,

though on various occasions, starting from 01.04.2003 onward the petitioner (since deceased) worked as a 'Reader' in different Courts. Learned counsel for the respondents submits that once, the petitioner was never promoted to the post of Reader substantively, the claim of the petitioner for the salary of the post of Reader and the consequential benefit of fixation of his pensionary benefits as are for the post of Reader, is not admissible and the same may kindly be rejected.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. A bare perusal of the letter, which has been written by the District and Sessions Judge, Faridkot dated 12.10.2018, copy of which has been appended as Annexure P-6, certain facts have been conceded even by the respondents while filing the reply to the legal notice issued by the petitioner. It has been conceded in paragraph-1 of the said reply that the petitioner remained posted as a 'Reader' in the Court of Additional Civil Judge (Senior Division), Malout w.e.f. 01.04.2003 to 10.03.2004. Thereafter, the petitioner remained working as a Reader in the Court of Civil Judge (Sr. Divn.), Sri Muktsar Sahib w.e.f. 11.03.2004 to 25.07.2005 and thereafter, as a Reader in the Court of Additional District & Sessions Judge, Sri Muktsar Sahib w.e.f. 26.07.2005 to 31.03.2008 i.e. till the date of his retirement.

6. Once, it is conceded that the petitioner was working on the post of Reader on various occasions as has been envisaged in letter dated 12.10.2018 (Annexure P-6) by learned District & Session Judge, Faridkot, petitioner is entitled for the salary for the post of Reader on which he was working keeping in view the recommendation of Shetty Pay Commission qua the said post of Reader.

7. Keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in P. Grover vs. State of Haryana, AIR 1983 SC 1060, an employee is entitled for the salary of the post on which he/she has worked. The relevant paragraph of the said judgment is as under:-

"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."

8. Keeping in view the above, the petitioner is held to be entitled for the salary for the post of Reader keeping in view the facts which have been mentioned in the reply against the legal notice issued by petitioner by the respondents dated 12.10.2018 (Annexure P-6). The petitioner shall be granted the salary for the post of Reader while the petitioner was working in the Court of Additional Civil Judge (Sr. Divn.), Malour, Civil Judge (Sr. Divn.), Sri Muktsar Sahib and Additional District & Sessions Judge, Sri Muktsar Sahib starting from 01.04.2003 till 31.03.2008. The difference in the salary he had already received as an Assistant, be released to the legal heirs of the petitioner within a period of eight weeks of the receipt of copy of this order. It is made clear that in case the petitioner has already got the salary for the post of Reader, the same will suffice the direction that has been given in the present petition.

9. The claim of the petitioner that he should have been substantively promoted on the said post does not hold any weight as nothing has come on record to show that there was any vacancy available for the post of the Reader for regular promotion of the petitioner prior to the date when the petitioner retired. The promotions of any person, which have been made to the post of Reader have only been done in the year 2009, which is after the retirement of the petitioner and, therefore, the petitioner cannot claim the benefit of substantive promotion to the post of Reader so as to fix his retiral benefits of the post of Reader.

10. Petition is partly allowed in above stated terms.

11. Pending miscellaneous application, if any, also stands disposed of.