
(2011) 08 SHI CK 0208
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8284 of 2008

Jawind Lal Chauhan

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0208

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—Heard and gone through the record.

2. Petitioner had been working as Librarian on the establishment of Respondent No. 1, when pay revision, effective from 1st January, 1996, took place and Rules, regarding such pay-revision, were issued vide Notification dated 20th January, 1998, copy Annexure A-3. Petitioner, at the time of the aforesaid pay-revision, had been drawing pay in the unrevised pay-scale of Rs. 1500-2640. His basic pay was Rs. 3,400/-, on account of his having granted ex-gratia increments, in the Master Scale. The revised pay-scale, effective from 1st January, 1996 was Rs. 5,000-8,100. Pay of the Petitioner was fixed at Rs. 8,100/- plus Rs. 2,200/- personal pay. Order of fixation, copy Annexure A-4, which is dated 12th August, 1998, said that personal pay of Rs. 2,200/- would be adjusted against future increments. Since the maximum of the pay-scale was Rs. 8,100/-, it can be assumed that future increments were to be earned by the Petitioner in the Master Scale and the personal pay of Rs. 2,200/-, as aforesaid, was to be adjusted against such increments. Petitioner is aggrieved by this order. His plea is that when Master Scale was there, his basic pay of Rs. 8,100/- and personal pay of Rs. 2,200/- should have been clubbed and fixed at Rs. 10,300/- (aggregate of the personal pay and the basic pay), in the Master Scale. In the alternative, his plea is that the condition of adjustment of personal pay against future increments ought not to have been there, as it runs contrary to the concept and the object behind the provision of Master Scale.

3. Respondents, in their reply, have stated that proviso (b) to Rule 7 of Rules Annexure A-3, which is reproduced below, provides for absorption of personal pay in future increments and, therefore, nothing is wrong with order Annexure A-4, fixing the pay of the Petitioner, with the condition that the personal pay of Rs. 2,200/- will be absorbed in future increments.

(b) if the amount so arrived at is higher than the maximum of the revised scale, the amount in excess of the maximum of the revised scale shall be treated as personal pay which shall be absorbed in future increments and shall be reckoned as pay for all purposes.

4. I have heard learned Counsel for the parties and perused the record.

5. It is true that proviso (b) to Rule 7 of Rules Annexure A-3 says that if the amount, at which pay of a Government servant is to be fixed, exceeds the maximum of the pay-scale, the difference between such amount and the maximum of the pay-scale is to be treated as personal pay, which is to be adjusted against future increments, but also there is a provision of Master Scale and it is in this Master Scale that a person, even if he reaches the maximum of the pay-scale of the post, gets ex-gratia annual increments. Employees, in whose case the amount of emoluments, in accordance with Rule-7, falls short of the maximum of the scale of the post or is at the level of the maximum of such scale, would be getting the benefit of ex-gratia annual increments, in the Master Scale, regularly, but in the case of the employees, whose emoluments, in terms of Rule-7, are higher than the maximum scale of the post, would be deprived of such benefit, because future increments will be adjusted against the personal pay. Thus, this is a case of extreme hardship to the Government servants, whose emoluments, on account of their longer period of service, exceed the maximum of the pay-scale of the post. There is a provision in the Rules for relaxation of the Rules, if the same cause undue hardship to an individual employee or a class of employees. Provision is contained in Rule-11.

Writ petition is disposed of, with a direction to the Respondents to consider the case of the Petitioner for relaxation of the Rules, so that the extreme hardship faced by him, as demonstrated hereinabove, is mitigated. Decision in the matter shall be taken within two months and in case the Petitioner so desires, he shall be heard in person, for which he shall have to express his desire, in writing, within ten days from today. Pending application (s), if any, also stand disposed of.