(2016) 12 P&H CK 0069

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 7931 of 2014 (O&M)

Kulwant Rai Sharma APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 09-12-2016

Acts Referred:

Citation : (2017) 3 SCT 93

Hon'ble Judges : Kuldip Singh, J.

Bench : Single Bench

Advocate : Ashok Kumar Bazaz, Advocate, for the Petitioner; Avinit Awasthi, AAG, Punjab, for the Respondent; R.D. Bawa, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

Kuldip Singh, J. (Oral)—Petitioner was working as Executive Engineer since 8.12.1984 in the Municipal Corporation, Amritsar. He retired from services as Corporation Engineer (Executive Engineer) on 30.9.1996 on attaining age of superannuation. It comes out that Assured Career Progression Scheme (Annexure P-4) (for short ''the ACP Scheme'') for the category, where there is direct recruitment in the pay scale of Rs. 2200-4000 as on 31.12.1995 was issued in pursuance to the recommendations of 4th Pay Commission. Petitioner claims the benefit of Rule 4 (ii) to claim the benefit of one increment. Earlier the petitioner approached this Court by way of filing the CWP-11918-2013, Kulwant Rai Sharma v. State of Punjab and another, claiming the same relief. The said writ petition was disposed of by this Court vide order dated 1.7.2013 directing the respondents to pass a speaking order considering the claim of the petitioner in respect of grant of one additional increment under the ACP Scheme. Consequently, a speaking order dated 25.9.2013 (Annexure P-17) was passed whereby in terms of the recommendations of 5th Pay Commission, the revised pay scale of Rs. 10025- 15100 was released to the petitioner and his basic pay was fixed at Rs. 14300/- w.e.f. 1.1.1996. The Secretary, Government of Punjab, Local Government Department, while noticing in impugned order that there is an increase of Rs. 9,000/- in the basic pay did not allow one additional increment on the ground that he has earlier got the benefit of Rs. 9,000/-. Petitioner is aggrieved of the said part of the order declining him one increment and also placing him in the wrong pay scale.

2. I have heard learned counsel of the parties at length and have also carefully gone through the file.

3. The factual position is not disputed. Admittedly, at the time of retirement, petitioner was getting the pay scale of Rs. 3700-5300 after 18 years of service which was the highest pay scale under the old pay scale. The corresponding pay scale in such case was Rs. 14300-18150 after 14 years of regular service including service as SDE. In this way petitioner was granted wrong pay scale and he was to be given the pay scale of Rs. 14300- 18150. However, there was no monetary loss to the petitioner since his pay was fixed at Rs. 14300/- which was the minimum of the said pay scale.

Rule 4 (i) and (ii) of the said Scheme is reproduced below :-

4.(i) The pay of employee shall first be fixed in the revised scale in Column 3 of the first schedule against the pre-revised scale in Column 2 thereof which he was drawing immediately before Ist January, 1996 or the date opted for by him in terms of the provisions contained in the Punjab Civil Services (Revised Pay) Rules, 1998;

(ii) The employee shall then be placed in the higher admissible scale on completion of ''satisfactory'' service. If in any case the benefit is less than one annual increment, the pay shall be stepped up so as to ensure benefit of atleast one increment at the time of such placement. If the minimum of the higher scale allowed under this Scheme is higher than the stage arrived at in view of above, the pay of such employee shall be fixed at the minimum.

4. It goes to show that the petitioner was to be granted revised pay scale which was mentioned in the column 4 (i) of the said Scheme that pay of the employee shall be first fixed in the revised scale in column 3 of the first schedule against the pre-revised scale in column 2 thereof which he was drawing i.e. Rs. 3700-5300. He was given revised pay scale of Rs. 14300- 18150. Then under Rule 4 (ii) of the said Scheme it was stipulated that employee shall then be placed in the higher admissible scale on completion of satisfactory service and in case the benefit of higher pay scale is less than of one annual increment, the pay shall be stepped up so as to ensure benefit of atleast one increment at the time of such placement. If the minimum of the higher scale allowed under this Scheme, is higher than the stage arrived at in view of above, pay of such employee shall be fixed at the minimum.

5. In the present case, since the petitioner was already at the higher pay scale, therefore, there was no higher admissible scale which could be given to him on account of satisfactory service. Therefore, as per Rule 4 (ii) of the Scheme as

examined in case there was a higher scale and the benefit was less than one annual increment the pay of the employee shall be stepped up to ensure that benefit of atleast one annual increment is given to the employee. Since, there was no higher pay scale, therefore as per the spirit of Rule 4(ii), one increment shall be given to the petitioner in terms of the said Rule.

6. Learned Counsel for Corporation has fairly stated that they had recommended the case of the petitioner for such increment in terms of the order dated 16.4.2002 (Annexure P-5) and 17.4.2013 (Annexure P-15). In view of the matter, impugned order (Annexure P-17) dated 25.9.2013 not allowing one annual increment to the petitioner under Rule 4 (ii) of the Scheme is hereby quashed. Respondents are ordered to grant one annual increment to the petitioner in terms of Rule 4 (ii) of the Scheme and thereafter recalculate the salary, pension and other benefits and release the same to the petitioner within a period of three months from the date of receipt of the copy of this judgment. Since, the petitioner approached this Court for the first time in the year 2013, therefore, interest on the arrears @ 9% per annum shall be payable to him from 2013.

The petition is allowed in the above terms.