

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

228

CWP-3150-2024

Date of Decision : August 04, 2026

PREM NATH AND OTHERS

-PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Deepak Arora, Advocate
for the petitioners.

Mr. Charanpreet Singh, A.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition is directed against the order dated 22.11.2021 (Annexure P-11) passed by respondent No.2, whereby the claim of the petitioners for revision of their pension and other retiral benefits, on the basis of the last pay drawn by them at the time of their retirement while officiating against the respective posts of Principals/Headmasters/Headmistresses, has been rejected.

2. Succinctly stated, the petitioners, who were appointed as Lecturers/Masters in the School Education Department, Government of Punjab, were intermittently assigned the duties of the higher posts of Principals/Headmasters/Headmistresses against vacancies arising in the respective schools on account of retirement, transfer or other administrative exigencies. The particulars of the periods during which each of the petitioners officiated against the respective higher posts have been set out in paragraphs 4 to 9 of the writ petition.

3. The case set up by the petitioners is that, having discharged the duties and responsibilities attached to the higher posts in an officiating capacity, they were entitled to be paid the salary attached to such posts and, consequently, to have their pension and other retiral benefits determined on the basis of the higher pay so drawn. The petitioners, accordingly, seek revision of their pension and other retiral benefits. However, their claim has been rejected by the respondent-department.

4. Learned counsel for the petitioners submits that the claim of the petitioners is founded upon Rule 6.19-C of Chapter 6 of the Punjab Civil Services Vol. II, read with Rule 2.44 of the Punjab Civil Services Vol. I. It is further submitted that there is no dispute that, on the date of their retirement, the petitioners were drawing the pay and dearness pay prescribed for the posts of Principals and Headmasters/Headmistresses. Therefore, once the respondent-department itself permitted the petitioners to draw the higher pay attached to the posts against which they had officiated and they retired while holding such officiating charge, there was no justification for the respondent-department to deny them fixation of pension and other retiral benefits with reference to the last pay drawn at the time of their retirement. In order to lend vigour to his submissions, learned counsel places reliance upon the order dated 09.09.2016 passed by a Coordinate Bench of this Court in CWP-17358-2015, titled ***“Jagjit Singh and others vs. State of Punjab and others”***.

5. *Per contra*, learned State counsel appearing for the respondents, while controverting the submissions advanced on behalf of the petitioners, submits that the petitioners, being the senior-most employees in

their respective schools, were entrusted with the powers of Drawing and Disbursing Officers to draw the salaries of the employees of the concerned schools, as a purely temporary arrangement necessitated by the vacancies in the posts of Headmasters/Principals. It is further submitted that, although the petitioners were senior within their respective schools during the period of officiation against the higher posts, they were not senior in the cadre seniority maintained by the respondent-department. Lastly, it is contended that the petitioners have already been extended the financial benefits admissible for officiating against the higher posts and, therefore, they cannot claim fixation of pension on the basis of the last pay drawn merely on account of officiating charge.

6. This Court has considered the rival submissions advanced by learned counsel for the contesting litigants and has also made a studied survey of the record.

7. The facts qua which there is no wrangle between the parties are that the petitioners were, on different occasions, assigned officiating charge of the higher posts of Principals/Headmasters/Headmistresses on account of administrative exigencies arising from vacancies caused by retirement, transfer, or other reasons. It is also not disputed that the petitioners were extended the financial benefits attached to such officiating assignments.

8. The question which, therefore, arises for determination is whether the petitioners, having performed the duties attached to the higher posts in an officiating capacity at the time of their retirement, are entitled to revision of their pension and other retiral benefits by taking into consideration the last pay drawn by them against such higher posts.

9. The specific stand of the respondent-department is that, although the petitioners may have been senior to the other employees in their respective schools at the relevant time, which led to their being assigned the officiating charge of the higher posts, they did not possess the requisite seniority in the cadre and, consequently, did not fall within the zone of consideration for promotion to the higher posts of Principal/ Headmaster/Headmistress during the periods in which they officiated against such posts.

10. The aforesaid stand of the respondent-department has not been controverted by the petitioners. In these circumstances, it is evident that the petitioners did not possess the requisite seniority to claim promotion to the higher posts, and the officiating charge was entrusted to them solely on account of their seniority within their respective schools and the administrative exigencies arising from the vacancies in the higher posts. Accordingly, the mere assignment of fortuitous officiating charge on account of administrative exigencies, does not entitle the petitioners to seek revision of their pay scale or pension on the basis of the last pay drawn against such higher posts. This is not a case where the petitioners, despite being amongst the senior-most and eligible for promotion, were denied promotion to the higher posts. Rather, the petitioners were lower in the cadre seniority and were entrusted with the duties of the higher posts only for brief periods, during which such posts remained vacant.

11. The aforesaid issue already stands considered by a Full Bench of this Court in ***“Subhash Chander vs. State of Haryana and others”***, **2012(1) SCT 603**. The relevant observations are extracted hereunder:-

“12. A close examination of Rule 4.13 of the Rules would show that

once a person like the petitioner has been given independent charge of a post, which involves assumption of duties and responsibilities of greater importance than the one attaching to the post held by such an employee on which he holds a lien or would have held his lien had it not been suspended, then he is entitled to pay of the higher post. A post is regarded to involve assumption of duties and responsibilities of greater importance if it carries higher pay scale than the one on which he holds the lien. In the present case, the pay scale of the post of Accountant is lower than that of the post of the Secretary.

13. It has come on record that the petitioner Subhash Chander was given the charge of the post of Secretary of Municipal Committee, Ratia on 02.11.1996/11.12.1996 (P-1). The aforesaid charge was given to him against a vacant post without requiring him to work as Accountant in addition. In other words, it was not additional charge but was an independent charge of the post of Secretary. Therefore, it is evident that within the principle emerging from Rule 4.13 of the Rules, he would be entitled to higher pay scale of the post of Secretary because the post of Secretary has to be considered involving assumption of duties and responsibilities of greater importance than those attaching to the post of Accountant on which the petitioner had held the lien. The petitioner also fulfilled the conditions being in the line of promotion because he was senior most Accountant and would have been promoted on the basis of his seniority. Merely because he has been given officiating charge of the higher post without regular promotion, would not result into deprivation of higher salary from the date he has assumed the charge.

14. We wish to make it clear that the Rules laid down by us would not cover a case where a fortuitous officiating promotion is given to an employee working in the lower cadre on account of administrative exigency resulting in vacancy of a higher post. For illustration, if the post of Sub Division Officer is a feeder cadre for promotion to the post of Assistant Executive Engineer then on vacancy caused by retirement, death or promotion etc., the promotion of the Sub Division Officer available at the station on the post of Assistant Executive Engineer would not earn him higher pay scale because it is a fortuitous circumstance unless he is senior enough to stake his claim for regular promotion. The aforesaid principle has been laid down by their Lordships' of Hon'ble the Supreme Court in the case of Ramakant

Shripad Sinai Advalpalkar v. Union of India, 1991 (Suppl. 2) SCC 733.

15. *We are further of the view that Rule 4.13 of the Rules would virtually sound like the principle laid down in the judgment of Hon'ble the Supreme Court in Smt. P. Grover v. State of Haryana, AIR 1983 SC 1060. In that case, an employee in the State of Haryana was given promotion as acting District Education Officer about two years before her superannuation. The order giving her promotion as an acting District Education Officer recited a condition that she was to draw salary in her own pay scale which meant that her scale would continue to be that of the post of Principal, Higher Secondary School. Accordingly, their Lordships' of Hon'ble the Supreme Court accepted the claim of Smt. P. Grover as if the principles laid down in Rule 4.13 of the Rules have been applied. The concluding para of the judgment reads as under:*

“3. We mentioned that she was promoted as an acting District Education Officer with effect from July 19, 1976. The order of promotion contained a superadded 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 was extending her services recited that she was an acting District Education Officer, but contained a superadded 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 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 Article 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 was no Class-I posts 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 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.”

16. The argument of learned State counsel based on the judgment rendered in R.K. Aggarwal’s case (supra) would not require any detail consideration because there was serious dispute concerning seniority of the officers in the cases where disputes concerning seniority are involved. The officiating charge may not earn the fixation of higher pay scale for the post on which the officer is officiating. However, in the present case, there is no dispute of such nature. We are also not impressed with the argument that somewhere in 2006, the petitioner was charge-sheeted and, therefore, regular promotion has to be taken into account only from 27.10.2008 (P-10) and the salary is also required to be fixed in the higher grade from that date alone. The aforesaid argument is liable to be rejected for more than one reason. Firstly, the petitioner has been discharging the duties on a higher post of Secretary w.e.f. 2.11.1996/ 11.12.1996 (P-1). If any, charge-sheet in 2006 was issued then it was at a stage when the petitioner was discharging his duties as Secretary, therefore, the argument would have no effect insofar as the present case is concerned and the judgment in R.K. Aggarwal’s case (supra) would have no application.”

12. In view of the foregoing discussion, this Court has no hesitation in holding that the petitioners are not entitled to revision of their pension and other retiral benefits on the basis of the last pay drawn by them at the time of their retirement while officiating against the respective posts of Principals/Headmasters/Headmistresses.

13. Insofar as the reliance placed by learned counsel for the petitioners upon **Jagjit Singh (supra)** is concerned, the same is wholly

misplaced. In that case, regular promotions could not be made, and consequently, most of the senior-most employees were asked to officiate on promotional posts but they unfortunately retired without receiving the formal tag of regular promotion. In that factual backdrop, the learned Single Judge held them entitled to pension and other retiral benefits as per the last pay drawn by them on officiating posts. The legality of the order rendered in the said case was tested by a Division Bench of this Court in LPA No.37 of 2017, titled “*State of Punjab and others vs. Jagjit Singh and others*” and connected Letters Patent Appeals. The Division Bench, vide order dated 25.09.2018, disposed of the Letters Patent Appeals with directions to consider the claim of each of the respondents therein for regular promotion as per their seniority and eligibility conditions. The relevant observations of the Division Bench read as under:

[3]Since regular promotion could not be made, most of the senior most persons were asked to officiate on the promotional posts. They have unfortunately retired from service without getting formal tag of regular promotion. It is in this backdrop that the learned Single Judge vide order under appeal has held them entitled to pension and other retiral benefits as per the last pay drawn by them on officiating posts.

[4] We have heard learned counsel for the parties at a considerable length and are of the view that the appellants cannot take undue advantage of their own inaction or wrongs. Seniority is a condition of service. It has to be determined at the earliest in accordance with the Rules governing conditions of service. If any delay occurs because of multiple Court proceedings, the authorities ought to have evolved some mechanism to grant regular promotions to the senior most Lecturer/ Master/ Mistresses, for promotion is also a legitimate expectation in service career. The controversy nevertheless does not require further deliberations, for necessary directions to consider and promote the Lecturer/ Master/ Mistresses on higher posts as per their seniority and

other eligibility conditions have already been issued by this Court in the above-cited order dated 23.05.2017. Let those directions be complied with within the time-frame given in the cited order. The respondents in the lead case or the writ petitioners in the connected petitions shall also be considered for regular promotion as per their seniority and eligibility conditions from the due date and in accordance with the Rules, which were in vogue at the time of occurrence of vacancies. While the promotions shall be granted retrospectively but on notional basis only and they shall be entitled to fixation of their pension and other retiral benefits as per the pay deemed to have been drawn by them on the higher promotional posts. They shall also be entitled to arrears of pension and other retiral benefits alongwith interest @7% per annum. The needful shall be done within a period of six months. However, if the respondents in the lead case and the writ petitioners in the connected cases have not been granted emoluments for the period they officiated/worked on the higher posts, let such claim be also considered within a period of four months.”

14. Therefore, since the issue involved in ***Jagjit Singh (supra)*** was materially distinct, the petitioners cannot derive any benefit therefrom.

15. In summa, the instant writ petition, being devoid of merit, is hereby **dismissed**.

August 04, 2026
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No