
(2000) 11 P&H CK 0218
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 7350 of 1998

Siri Ram

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 14-11-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2000) 11 P&H CK 0218

Hon'ble Judges : R.C. Kathuria, J;M.L. Singhal, J

Bench : Division Bench

Advocate : Mr. R.K. Chopra, for the Appellant; Mr. Gurminder Singh, D.A.G., for the Respondent

Judgement

M.L. Siughal, J.—Siri Ram petitioner was appointed as Conductor in the Punjab Roadways on 11.1.61. He was promoted as Inspector in the Punjab Roadways on 27.8.79. On 30.6.78, a decision was taken by the Govt. to transfer local bus services to the various Municipal Corporations upto the radius of 25 kilometers and for running those buses, it was decided that tile staff of Punjab Roadways be transferred to the Municipal Corporations. Options were invited from the concerned employees. Petitioner opted for his absorption in Municipal Corporation, Ludhiana. On 1,1.1980, he was transferred to Municipal Corporation, Ludhiana on the sanle terms and conditions which were applicable to him in the Punjab Roadways except in respect of pension and promotion. On 22.2.80, 20% posts of Inspec-tors in the Punjab Roadways were placed in the selection grade. On 6.3.82, Municipal Corporation granted selection grade of Rs. 580-1120 to the petitioner with effect from 3.1.80 i.e. the date when the petitioner joined Municipal Corporation, Ludhiana. On 22.6.82, the Commissioner, Municipal Corporation, Ludhiana promoted the peiitioner as Welfare Inspector in the Transport Wing in the scale of Rs. 620-1200. On 1.1.86, pay scales of the employees were revised and the peiitioner opted for the revised pay scale with effect from 1.1.86. His pay was fixed at Rs. 1840/- in the pay scale of Rs. 1800-3200. On 11.6.91, he was confirmed as Welfare Inspector by Municipal

Corporation and was granted the proficiency step tips. On 23.7.95, 387 class III posts were created in the Roadways for absorbing the transport employees who were to be taken back from Municipal Corporations as a result of the closing down of the Municipal Transport System. These posts were created purely personal to the affected employees and were to be abolished as and when these employees ceased to be as such for any reason. On 27.11.95 in view of the aforesaid decision of the State Government, the petitioner was taken back in the Transport Department along with the post and the scale of pay. Petitioner joined the duty in Transport Department on 17.1.95. On 1.6.96, the annual grade increment was granted to the petitioner and the pay of the petitioner was fixed at Rs. 2340/- plus Rs. 40/- A.P. on 1.1.1996. The next annual grade increment of the petitioner was due as on 1.1.97 and 1.1.98. On 1.2.98, the General Manager, Punjab Roadways reduced the pay of the petitioner retrospectively right from 1.1.80 and the pay of the petitioner was reduced from Rs. 2270/- plus Rs. 40/- A.P. in the pay scale of Rs. 1800-3200 of 1.1.95 to Rs. 1850/- plus Rs. 207/- A.P. in the pay scale of Rs. 1500-2700/-. It was also ordered that the recovery be effected from the petitioner for the period from 7.12.95 onwards. On 18.2.98, 20.3.98 and 20.4.98, the petitioner represented to the State of Punjab that the order Annexure P9 was issued illegally and in an arbitrary manner, the pay of the petitioner was reduced inasmuch as no notice was given to him or opportunity of hearing before order Annexure P9 was issued. Annexure P9 could not have been issued when he was taken back in" the Department along with the post and the scale of pay.

2. State of Punjab contested the writ petition urging that in pursuance of the decision taken by the State Government to transfer local operation by the Punjab Roadways, Ludhiana, Amritsar and Jalandhar to the concerned Municipal Corporation, buses of Punjab Roadways along with the staff were transferred to Municipal Corporation, Ludhiana, Amritsar and Jalandhar. At that time petitioner was working as Inspector with the Punjab Roadways. He was transferred to Municipal Corporation Ludhiana on his request. On the basis of seniority in the Municipal Corporation, Ludhiana he was promoted to the post of Welfare Inspector. Employees who were transferred to the Municipal Corporations filed number of writ petitions for their repatriation to the Punjab Roadways. Ultimately, a decision was taken by the State Government to absorb those employees in Punjab Roadways who were earlier transferred to Municipal Corporation. At the time of transfer to Municipal Corporation, petitioner was posted as Inspector in the Punjab Roadways. He was repatriated to the post of Inspector vide order No. SE 111(3) 24267 dated 4.8.95 Annexure R-I/T passed by the Director State Transport, Punjab. He did not challenge this order but submitted his joining report on the post of Inspector (Annexure R-II/T). On the basis of seniority in the Punjab Roadways, he was adjusted against the post of Inspector as number of other employees who were senior to him were working as Inspectors. As he joined on the post of Inspector, his salary was fixed as Inspector in the pay scale admissible to the post of Inspector. His salary cannot

be fixed over and above his seniors. Vide order dated 15.6.98, the petitioner was promoted to the post of Chief Inspector. He was given selection grade in the Municipal Corporation, Ludhiana on the basis of his seniority in the Municipal Corporation. In Punjab Roadways, he was not entitled to the grant of selection grade on 1.3.80 because number of employees were senior to him and only senior most employees were eligible for the grant of selection grade. He was promoted to the post of Welfare Inspector by the authorities of the Municipal Corporation, Ludhiana on the basis of his seniority in Municipal Corporation, Ludhiana whereas he is junior in Punjab Roadways and number of employees are senior to him in the Punjab Roadways. His pay was fixed in Municipal Corporation, Ludhiana after giving him selection grade and promotion on the basis of his seniority there. At the time of repatriation in the Punjab Roadways, he was absorbed as Inspector on the basis of his seniority in Punjab Roadways. As per his seniority in the Punjab Roadways, he could be given only the post of Inspector. It was denied that he was absorbed along with the post on which he was working in the Municipal Corporation, Ludhiana. He was absorbed in the Punjab Roadways as Inspector vide order dated 4.8.95 passed by the Director, State Transport. His pay was rightly fixed keeping in view that he could be given only the post of Inspector.

3. We have heard the learned counsel for the petitioner, learned Deputy Advocate General, Punjab and have gone through the record.

4. Learned counsel for the petitioner submitted that the petitioner was working as Welfare Inspector in Municipal Corporation, Ludhiana and he had earned proficiency step ups also in the Municipal Corporation, Ludhiana. He should be deemed to have been absorbed in the Punjab Roadways against the post equivalent in status and emoluments to the post of Welfare Inspector. In the Municipal Corporation, the post of Welfare Inspector was carrying the scale of Rs. 1800-3200 on 1.1.86. On 1.1.87, his salary was fixed at Rs. 1840/-. He was promoted as Welfare Inspector in the Transport Wing of Municipal Corporation, Ludhiana on 22.6.85. It was submitted that on the closing down of the Municipal Transport System by the Municipal Corporation, the Punjab Government created 387 class III posts with a view to facilitate their absorption. Those posts were created purely personal to the affected employees and were to be abolished as and when these employees ceased to be as such for any reason. In pursuance of the policy of absorption adopted by the Punjab Government, in regard to the transport employees who were on the staff of Municipal Corporation, the petitioner joined duty in the Transport Department on 7.12.95 along with the post and the scale of pay.

5. In our opinion, there is fallacy in the thinking of the petitioner. On the creation of 387 class 111 posts for absorbing the transport employees who had been sent back by the Municipal Corporations as a result of closing down the Municipal Transport System, they were to be absorbed only against the posts which could be offered to them keeping in view their seniority in the Punjab Roadways. So far

as the respondents are concerned, their case is that he was absorbed in the Punjab Roadways as Inspector. As per his seniority, he could not be given any post superior to the post of inspector. Even seniors to him were holding the post of Inspector as on the day when he was absorbed in the Punjab Roadways in the wake of decision Annexure P7. Whatever post, he was holding and whatever emoluments he was drawing in the Municipal Corporation, closing down of the transport system by the Municipal Corporations put an end to the post he was holding there together with the emoluments he was drawing there. With his absorption in the Punjab Roadways, there was the revival of old terms and conditions which had been given to him when he was initially recruited by the Punjab Roadways, in the Punjab Roadways, there was no post of Welfare Inspector on which he could be absorbed. Even if there had been, even then he could not have been absorbed against the post if his seniority did not permit his absorption against that post. Whatever post he held in the Municipal Corporation and whatever emoluments he drew there, came to an end with the closing down of the Municipal Transport System by the Municipal Corporations. Decision of the Government creating posts was meant only to absorb those who were to be absorbed consequent upon the closing down of the transport system by the Municipal Corporations. Creation of these posts was only a measure to accommodate them and was not meant to absorb them against similar posts which they were holding in Municipal Corporations. Whatever post he was holding and whatever emoluments he was drawing in the Municipal Corporation did not vest him with any right to hold that post and the emoluments of that post even after his absorption in the Punjab Roadways and their absorption was a goodwill gesture shown by the Punjab Roadways to the petitioner and others who came back from the Municipal Corporation on abolition of the Municipal Transport System by the Municipal Corporation of Ludhiana, Jalandhar and Amritsar.

6. Faced with this position, learned counsel for the petitioner drew our attention to Mohinder Singh and another v. State of Punjab and others 1993(6) SLR 101 : 1994(1) SCT421 (P&H), in support of his submission that the post and salary of the petitioner could not be reduced consequent upon his absorption in the Punjab Roadways without being heard of without notice being given to him.

7. In the Punjab Roadways, as per his seniority, the post of Inspector could be given to him and no post above the post of Inspector. He was entitled to the pay admissible to the post of inspector and further he was not entitled to the pay in excess of what was being given to his seniors in the Punjab Roadways and as such to him no hearing was needed.

For the reasons given above, this writ petition fails and is dismissed.

8. Petition dismissed.