

(5) After hearing the learned counsel for the parties and having gone through the precedents relied upon by the respondent, I am of the considered view that no ground has been made out by the petitioners for the revision of their pay scale so as to equate the same with that of Rs. 700—1200. The mere fact that the petitioners are Labour and Welfare Inspectors and at times are required to discharge certain legal duties also while appearing before the Labour Court/Industrial Tribunal, etc. and for which purpose they have to be conversant with the provisions of Labour Legislation, like the Industrial Disputes Act, Factories Act, Workman Compensation Act, etc. does not entitle them to claim higher pay scale which the employees working on the posts requiring purely legal duties are getting. It has been settled now by the Supreme Court that revision of pay scale of a certain category of employees and the particular scale of pay in which the employees of certain categories are to be kept, are matters exclusively within the administrative sphere of the State Government or other semi-Government undertakings, Corporations, Boards, etc. Courts are neither supposed to know the nature of duties the incumbents of various posts are required to perform and the qualifications those persons are required to possess while manning those posts, nor are the Courts well-equipped with the financial aspect of the matter to pronounce upon the correctness and justness of the pay scales of various posts. A very limited scope is left with the Courts to interfere where a case of discrimination has been made out by the petitioner and where the employer has denied to the petitioner either equality of opportunity in the matter of employment or has denied equal pay for equal work. Both these ingredients are missing in the present case.

(6) Keeping in view the aforesaid considerations, I do not consider it a fit case to exercise the extraordinary jurisdiction of this Court. Consequently, the writ petition is dismissed. No costs.

P.C.G.

Before G. C. Mital & S. S. Grewal, JJ.

J. C. MITTAL,—Petitioner.

versus

THE STATE OF HARYANA AND ANOTHER,—Respondents.

Civil Writ Petition No. 7864 of 1990.

12th March, 1991.

Constitution of India, 1950—Art. 226 and 227—Entitlement to increments after passing DPE and DRE examinations—Petitioner

G. C. Mital v. The State of Haryana and another (G. C. Mital, J.)

appearing in DPE examination in 1979 but result finally declared in 1987—Petitioner clearing DRE examination in 1981—Passing of DPE examination will relate back to 1978—Petitioner—Entitled to arrears with effect from 1981.

Held, that the passing of the examination would relate back to 1978 examination and since he passed the DRE examination in 1981, under the service rules, the petitioner will become entitled to increments from the date he passed both the examinations. Since he passed one examination in 1978 and the other in 1981, he would be entitled to increments with effect from 1981 onwards. The order of the Government that the petitioner will not be entitled to arrears is hereby quashed. (Para 6)

Civil Writ Petition Under Articles 226/227 of the Constitution of India praying that :—

- (i) complete record of the case may kindly be summoned;*
- (ii) a writ in the nature of Mandamus or any other appropriate writ, order or direction directing the respondents to declare the result of the Departmental Professional Examination taken by the petitioner in November, 1978, be issued;*
- (iii) a writ in the nature of Mandamus or any other appropriate writ, order or direction directing the respondents to fix the pay of the petitioner after granting him increments due to him with effect from the date the petitioner joined service and to grant him the arrears of pay due to him on that account together with interest thereon at 18 per cent P.A. be issued;*
- (iv) in the peculiar circumstances of this case this Hon'ble Court may be pleased to issue any other appropriate writ, order or direction that it deems fit.*
- (v) issuance of advance notices to the respondents may kindly be dispensed with;*
- (vi) filing of certified copies of Annexures may kindly be dispensed with;*
- (vii) Costs of the petition be awarded to the petitioner.*

P. S. Patwalla, Advocate, for the Petitioner.

S. K. Sood, AAG, Haryana, for the State Respondent.

ORDER

G. C. Mital, J.

(1) The petitioner was entitled to get increments after passing Departmental Professional Examination (DPE) and Departmental Revenue Examination (DRE). The petitioner appeared in DPE in 1978 and the result of that examination was not declared as he was charged of using unfair means in that examination. While that matter was pending, the petitioner appeared in DRE in 1981 and was declared successful.

(2) The allegation of unfair means in DPE was decided by the Government in August, 1987 in favour of the petitioner and the charge was withdrawn. Thereafter the petitioner's result of DPE was declared in which he failed.

(3) When the petitioner came to know that he was short of one mark to clear that examination, he made representation to the State Government to give him one grace mark on the basis of instructions, Annexure P/2 and declare him pass. The Government sat over the matter. Since the matter was being delayed, he came to this Court in this writ petition.

(4) After notice of motion was issued, the State Government considered the matter and by order dated 4th January, 1991 declared the petitioner pass by giving him one grace mark in DPE. However, a condition was imposed that he will not be entitled to arrears of pay for the earlier period and would be entitled to increments with effect from the date of issue of the order i.e. 4th January, 1991. Copy of the order and a communication have been placed on record.

(5) Counsel for the petitioner says that the petitioner is satisfied so far as his result in DPE is concerned but it was the respondents who were in the wrong in not declaring the result of the petitioner in 1978 or till 1981 when he cleared DRE.

(6) We accept the argument raised by counsel for the petitioner that the passing of the examination would relate back to 1978 examination and since he passed the DPE examination in 1981, under the service rules, the petitioner will become entitled to increments from the date he passed both the examinations. Since

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he passed one examination in 1978 and the other in 1981, he would be entitled to increments with effect from 1981 onwards. The order of the Government that the petitioner will not be entitled to arrears is hereby quashed.

(7) For the reasons recorded above, the writ petition is allowed and a direction is issued to the respondents to grant increments to the petitioner according to the Service Rules with effect from 1981 when he passed the second examination. The arrears be paid within six months from today. No costs.

P.C.G.

Before J. V. Gupta, C.J.

SANDHYA (SMT.) AND OTHERS,—*Petitioners.*

versus

SHAMSHER SINGH,—*Respondent.*

Civil Revision No. 2240 of 1988.

31st July, 1990.

Punjab Land Revenue Act, 1887—Ss. 117(2)(c) & 158 (xvii) and (xviii)—Claim for partition of suit land—Question of title involved in partition proceedings—Suit filed before Civil Court—Where question of title already decided by the Assistant Collector the Jurisdiction of Civil Court to decide such claim is barred.

Held, that the question of title was raised by the present plaintiff in the partition proceedings and was negatived by the Assistant Collector,—*vide* its order dated 24th December, 1981. Section 117 clause (c) of sub-section (2) of the Punjab Land Revenue Act, provides that an appeal could be filed against the decree of the Revenue Officer in the Court of District Judge concerned. No such appeal was filed, rather the appeal was filed before the Collector against the said order where the same was maintained and further in revision to the Commissioner also, the said order of the Assistant Collector was upheld. Section 158 of the Punjab Land Revenue Act, 1887, provides that a Civil Court shall not exercise jurisdiction over any of the following matters, namely, (xvii) and claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of proceedings for partition, not being a question as to title in any of the property of which partition is sought; and (xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy,