

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/00424/2014

Date of decision: 13.3.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Rajdeep Singh Gill, IPS (Retd.), Former Director General of Police, Punjab, resident of #271, Phulkian Enclave, Backside Mini Secretariat, Patiala (Punjab).

...APPLICANT

BY ADVOCATE : Shri J.R. Syal

VERSUS

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi-110 001.
2. Government of Punjab, through its Principal Secretary, Department of Home Affairs & Justice, Punjab Civil Secretariat, Chandigarh.
3. Director General of Police, Punjab, Punjab Police Headquarters, Sector 9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: Sh. Deepak Agnihotri (R-1) and Shri B.S. Chahal
(R-2&3)

ORDER

Mr. Sanjeev Kaushik, Member (J):

Applicant assails an order dated 02.07.2010 passed by respondent no.1, order dated 30.07.2010 passed by respondent no.2 and the order dated 17.01.2014 whereby a clarification has been conveyed to the applicant that in terms of Indian Police Service (Pay) Amendment Rules, 2008, only the Director General of Police (Head of Police Force) is eligible to draw the apex pay scale of Rs.80,000/- (fixed). The applicant has further sought issuance of a direction to direct the respondents to release the apex scale of Rs.80,000/- (fixed) to him with effect from 01.07.2009 when the applicant was given the additional charge of the vacant post of Director General of Police (Head of Police Force) Punjab by the order of the Government of Punjab dated 30.06.2009 and accordingly re-fix the pay of the applicant in the apex scale and consequently re-fix his pension and grant him other retiral benefits.

2. The facts, which led to the filing of the present Original Application, are that the applicant is a 1973 batch Indian Police Service Officer, who was allocated to Punjab cadre. While working with the State of Punjab the applicant earned various promotions and on 20.11.2006 he was promoted as Director General of Police (DGP, for short). He was transferred and posted as DGP-cum-Director, PPA, Phillaur. He was given additional charge of the vacant post of DGP vide order dated 30.06.2009, which he assumed on 01.07.2009. It is the case of the applicant that in

terms of Rule 3 (1)(D)(iii) of Indian Police Service (Pay) Amendment Rules, 2008 (for short, the 2008 Rules) he became entitled for grant of pay in the apex scale of pay of Rs.80,000/- (fixed) since he worked on the post of DGP, he made a representation on 15/17.06.2009 to the Principal Secretary, Government of Punjab, Department of Home Affairs and Justice, Chandigarh for fixing his pay in the apex scale of Rs.80,000/- which was favourably recommended by the Government of Punjab to Government of India on 31.03.2010, seeking a clarification as to whether the applicant is eligible for apex scale or not and his basic pay is to be equalized to be fixed at Rs.80,000/- in the pay scale of Rs.HAG+Rs.75,500 (annual increment @ of 3%)-80000. The Government of India vide its communication dated 08.07.2010 clarified that under the 2008 Rules only the Director General of Police (Head of Police Force) is eligible to draw the apex scale of Rs.80,000/- (fixed) and all other DG level officers will be placed in HAG+(Rs.75500-80000) scale. The said decision was communicated by the Government of Punjab to the Director General of Police which was communicated to the applicant. The applicant submitted another representation on 27.01.2011 to the similar effect stating therein that since he performed the duties as Director General of Police (Head of Police Force), therefore, he became entitled for drawing salary in the apex pay scale. The applicant has also alleged discrimination *qua* two officers who were working with the respondent-department and to whom respondents have granted the apex pay scale.



His representation to the above effect has been turned down by the Government of India. He kept on making further representations to the respondents, which again met with same fate. Hence the Original Application.

3. It is one of the contentions at the hands of the applicant that since he had worked on the post of DGP by having additional charge, there cannot be any discrimination amongst the DGPs working in the State of Punjab on regular basis or on additional charge basis. Thus, all the officers who were promoted to the post of DGP are entitled to be given the apex pay scale.

4. The respondents contested the claim of the applicant by filing a detailed written statement. The Government of India has filed its separate reply wherein they have submitted that in terms of 2008 Rules only an officer who was appointed as Director General of Police (Head of Police Force) is entitled to draw his pay fixed in the apex scale and no other officer who is working as DG with the State.

5. The respondent-State of Punjab has also filed written statement on the same lines wherein they have submitted that the case of the applicant was referred to the higher authority, i.e., Government of India, who have rejected the same by quoting Rule 3 (1) (D) (iii) of 2008 Rules, therefore, the prayer of the applicant cannot be acceded to. They have also relied upon the order passed by this Court in OA

no.530/CH/2010 decided on 17.02.2012 titled as **A.P. Pandey v. Union of India & Ors.** The learned counsel representing the respondent-State of Punjab argued that once this issue had already been decided by this Court in the case of A.P. Pandey (supra) and have negated the similar prayer therein, therefore, this OA deserves the same fate.

6. The applicant has filed rejoinder wherein he submitted that since he had worked against the vacant post of Director General of Police (Head of Police Force), therefore, by virtue of his top placement in that post based on seniority list, his pay is to be fixed in the apex scale.

7. We have given our thoughtful consideration to the entire matter and have perused the pleadings on record.

8. The solitary contention at the hands of the applicant is that he became entitled for fixing his pay in the apex scale as he was having additional charge of the post of Director General of Police (Head of Police Force).

9. To answer the above poser, a brief history for introducing the apex scale is to be spelt out. The apex scale of Rs.80,000/- (fixed) has been introduced as a new pay scale after VI Central Pay Commission by upgrading the existing post of Director General of Police (Head of Police Force) in each State cadre. The notification to this effect was issued on 27.09.2008, which was made applicable from the date of issuance. The

relevant rule 3 of the Indian Police Service (Pay) Rules, 2007 reads as under:

"In rule 3 of the said rules for sub-rule (1) the following sub-rule shall be substituted namely-

3. Pay-Bands and Grade Pays.- The pay bands and grade pays admissible to a member of the Service and the dates with effect from which the said pay bands and grade pays shall be deemed to have come into force, shall be as follows:-

A. Junior Scale -

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B. Senior Scale -

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C. Super Time Scale -

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D. Above Super Time Scale -

(i) Additional Director General of Police -

Pay-Band-4; Rs.37400-67000; plus Grade Pay Rs.12,000;

(ii) **HAG** +:Rs.75500-(annual increment @3%)-80000; Grade Pay: nil;

(iii) **Apex Scale:** Rs.80000 (fixed), Grade Pay: nil (by up-gradation of one existing post of Director General of Police as head of police force in the each State cadre); (with effect from the date of issue of notification of the Indian Police Service (Pay) Amendment Rules, 2008);

Note I *** **

Note 2: The post of Director General of Police in the apex scale shall be filled by selection from amongst the officers holding the post of Director General of Police in the State cadre in the HAG+scale of Rs.75500-(Annual increment @ 3%)-80000."

10. Perusal of the above quoted portion of the rules makes it clear that the Legislature has allowed the apex scale of Rs.80,000/- (fixed) to the post of Director General of Police (Head of Police Force) only and no other officers who are working as DGP in the respective States. The applicant has not denied this fact that the post of Director General of Police (Head of Police Force) is a selection post and the officers who are working on the post of DGP are eligible to be considered for appointment to the post of Director General of Police (Head of Police Force). Therefore, seniority alone is not the criteria for grant of apex scale. It is the post to which the scale is attached, i.e., Director General of Police (Head of Police Force). Therefore, the contention of the applicant that since he worked as Director General of Police (Head of Police Force) and his pay to be fixed in the apex scale cannot be acceded to and accordingly rejected.

11. With regard to the allegation of discrimination vis-à-vis N.P.S. Aulakh and K.K. Atri who were granted the apex scale, the respondents have replied that since they were appointed to the post of Director General of Police (Head of Police Force) by virtue of their appointment to that post they were granted the apex scale for the period when they actually worked on that post. They have also produced an order passed by the Government of Punjab to the similar effect in the case of Shri Suresh Arora, who was also posted as DGP during the leave period of Shri Sumedh Singh Saini, IPS, regular incumbent of that post, whereas in the



case of the applicant there is no denial by the applicant that he was not appointed to that post but the applicant was having additional charge while working as DGP, PPA, Phillaur. Thus, he did not work on the substantive post of DGP (Head of Police Force). Suffice to record here that there is no challenge to Rule 3 (1) of 2008 Rules, which talks of grant of apex scale only to the post of Director General of Police (Head of Police Force), which is a selection post amongst the DGP working in the State. Accordingly, the contention of the applicant fails and the present Original Application is liable to be dismissed.

12. There is another reason to dismiss this OA because similar issued had already been decided by this Court in the case of A.P. Pandey (supra) where this Court negated the similar prayer.

13. No other points has been raised.

14. In the light of the above, we are left with no option but to dismiss the OA being devoid of merit.

15. No costs.


(SANJEEV KAUSHIK)
MEMBER (J)


(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh

Dated: 13.3.2015