

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP NO.14770 of 1999 (O&M)

Date of decision:16.9.2015

Biram Chand and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Arvind Goel, Advocate for the petitioners

Mr.Inqalab Nagpal, AAG, Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

CM Nos.12487-88 of 2014

CMs are allowed. Documents are taken on record. Main case is taken up for final disposal today itself.

CWP No.14770 of 1999

Major relief has been granted to the petitioners by promoting them to the posts of Sr.Assistant (Accounts) w.e.f. 2001, but it has been accorded with immediate effect, but not retrospectively. This writ petition has been pending since 1999. Though they have been promoted, but their claim has not been considered from the due date i.e. when they cleared the

Assistant Grade Examination which made them eligible for promotion to the higher posts against available vacancies. Petitioner no.1 cleared the examination in 1991 during the currency of the Punjab State Assistant Grade Examination Rules, 1984. Petitioner no.2 qualified the Sr.Assistant Grade Examination on 5th September, 1997. Petitioner no.2 has retired from service in this year during the pendency of this petition.

Learned counsel for the petitioners submits that promotion is to be given to them with retrospective effect as Sr. Assistant (Accounts) from the date when the examination was qualified and in support of this contention, he relies on the decision of this Court in **Daljit Singh vs. State of Punjab and another (CWP No.1666 of 1990)** decided on 25th April, 2011. The text of the judgment has been placed with the Misc. Application as Annexure A-1. After Daljit Singh's writ petition was allowed, he was promoted to the post of Sr. Assistant (Accounts) w.e.f. 14th June, 2001 vide order dated 20th December, 2011, copy of which is placed on record as Annexure A-3. The petitioners claim parity of treatment to remove unfair discrimination.

Learned counsel for the State is not in a position to distinguish the judgment passed in **Daljit Singh's** case. In view of this, the petitioners have made out a case for interference.

In these circumstances, this petition is disposed of with a direction to the decision-maker in the respondents to consider the case of retrospective promotion of the petitioners from the due dates in terms of the law laid down in **Daljit Singh's** case. All consequential benefits be granted notionally to the petitioners, but actual monetary benefits will remain restricted to 36 months prior to the date of filing of the writ

petition. The petitioners would also be entitled to re-fixation of pay and pensionary benefits by correction of their last pay certificate. Let the needful be done within two months from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)

JUDGE

16.9.2015

MFK