

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7303 of 1998

Date of Decision:- 16.09.2015.

Bakshish Singh Beragi Museum Keeper (Retd.)

.....Petitioner

Versus

The State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Kanwaljit Singh, Advocate for the petitioner.

Mr. Amit Chaudhary, Additional A.G. Punjab.

P.B. BAJANTHRI, J.

1.) In this petition, the petitioner has sought for following relief:-

“i) Issue a writ in the nature of mandamus directing the Respondents – State to immediately implement Annexure P-7 in its true letter and spirit and grant appropriate pay scale to the petitioner by treating him to one step higher in the pay scale to that of Laboratory Assistant Gr. I and from the inception and accordingly revised pay scales falling due to the petition with effect from 1-1-1968, 1-1-1978 and 1-1-1986, may please be granted to the Petitioner alongwith interest @ 24% per annum and damages for negligent and callous

attitude of the State Government, including all consequential reliefs of arrears and grant pensionary and retiral benefits with retrospective effect.”

2.) The petitioner also approached this Court seeking a direction to re-fix his pay in CWP No.5588 of 1996. The same was disposed of with a direction to fix the pay of the petitioner with reference to the scale of pay and post. For non-compliance of the direction, petitioner filed COCP No.85 of 1997. This Court on 12.3.1998 disposed of CM Nos.696-697-CII of 1998 in COCP No.85 of 1997 wherein it has taken note of fixation of higher scale of ₹1200-2100 after disposal of the CWP No.5588 of 1996. In view of the said fixation, COCP came to be dismissed. An extract of the order passed in the aforesaid CM Nos.696-697-CII of 1998 in COCP No.85 of 1997 reads as follows:-

“I have heard counsel for the parties and in my opinion no case for contempt is made out. There is no gainsaying the fact that the petitioner as a Museum Keeper was in the pay scale of Rs.950-1800 and he has now been placed in the higher scale of Rs.1200-2100 which is being drawn by a Laboratory Assistant Grade I. It is true that prior to the revision of pay scale w.e.f. 1.1.1968, the scale of Museum Keeper was higher than that of Laboratory Assistant Gr.I and after revision it came to be lower though the post of Museum keeper is higher than that of Laboratory Assistant Grade I. Notwithstanding this anomaly, the respondents in strict compliance of the Court orders have fixed the petitioner in the higher scale of Rs.1200-2100. It cannot, therefore

be as said that the court directions have been violated, much less willfully.

Mr. M.M. Kumar, learned counsel for the petitioner, contended that this Court should give a direction to the respondents to remove the anomaly that has crept in the revised pay scale. I am afraid, no such direction can be given in the exercise of contempt jurisdiction. The petitioner may, if so advised, challenge the same in an appropriate proceedings in accordance with law.

In the result, the petition fails and the same is hereby dismissed.

12.3.1998.

Sd/-
(N.K. Sodhi)
Judge.”

3.) This Court has recorded that after disposal of the CWP No.5588 of 1996, higher scale of ₹ 1200-2100 has been granted. If the petitioner was still aggrieved, he should have questioned the order fixing higher scale of ₹ 1200-2100 instead of seeking only re-fixation of higher scale. Petitioner has sought for direction to implement Annexure P-7. Unless and until fixation of higher scale of ₹1200-2100 order is not challenged and set aside by Competent Authority/Court, the petitioner is not entitled to seek direction to implement Annexure P-7. Moreover cause of action accrued to the petitioner in the year 1968, 1978 and 1986 and the writ petition was filed in the year 1998. No doubt it is continuing cause of action insofar fixation of pay is concerned. However, at the same time one cannot ignore the delay and laches on the part of the petitioner.

Even to this day, the petitioner has failed to question the order of higher scale of ₹ 1200-2100 pursuant to order passed in CWP No.5588 of 1996. The petitioner has not made out a case so as to seek a writ of mandamus for grant of higher scale.

4.) Accordingly, the writ petition is dismissed.

(P.B. BAJANTHRI)
JUDGE

September 16, 2015.

sandeep sethi