

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**Civil Writ Petition No.11355 of 2015
Date of Decision:28.05.2015**

Mulakh Raj and others

....petitioners

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Sushil Saini, Advocate
for the petitioners

ARUN PALLI, J.(ORAL):-

A writ in the nature of mandamus is prayed for, so as to direct the respondents to protect the pay of the petitioners as on 01.01.1996 along with all consequential reliefs, since other identically placed Junior Assistants have already been extended the similar benefit, in terms of decision rendered by this Court in CWP No.22422 of 2010, titled as “Anil Kumar and others versus State of Punjab and others”, decided on 16.05.2012 (Annexure P3).

It is averred that the petitioners were initially appointed as Clerks and were regularised as Junior Assistants w.e.f.01.01.1996. All the Junior Assistants in the Department, prior to 01.01.1996 were afforded equal pay scale i.e. ₹1500-2700/-.

Pursuant to the recommendations of the 4th Pay Commission, Punjab

Civil Service (Revised Pay) Rules, 1998 (for short 'the Rules'), were notified on 16.01.1998 and, consequently, pay scales of the government employees like petitioners (Junior Assistants) were revised. Accordingly, Junior Assistants were placed in the revised pay scale of ₹ 5000-8100/-, that was to be granted to all the Junior Assistants w.e.f.01.01.1996. Petitioners, who purport to have been placed in the cadre of Junior Assistants w.e.f. 01.01.1996, were, thus, entitled to the scale of ₹ 5000-8100/- under the Rules. Subsequently, vide notification dated 19.05.1998 (Annexure P2), the Rules were amended and Punjab Civil Service (Revised Pay)(First Amendment) Rules, 1998, were notified. As a result, an anomaly was created in the cadre of Junior Assistants. The second schedule attached to the amended rules, envisaged that for the cadre of Junior Assistants, the earlier pay scale of ₹ 1500-2700/- was revised to ₹ 5000-8100/-, but an explanation appended thereto stipulated that those Junior Assistants who were designated as such on 01.01.1996, their designation and revised equivalent pay scales shall be protected as a measure personal to them. And those Junior Assistants, who were designated as such after 01.01.1996, shall be entitled to the pay scale of ₹ 4400-7000/-. That is how, all those Junior Assistants who were designated as such, prior to 01.01.1996 were placed in the pay scale of ₹ 5000-8100/- and those who were designated, post 01.01.1996, were given the pay scale of ₹ 4400-7000/-. This was despite the fact that the entire cadre of Junior Assistants, prior to the revision w.e.f.01.01.1996 were placed in the same scale of ₹ 1500-2700/-.

It is maintained that this Court in a decision rendered in CWP No.22422 of 2010, decided on 16.05.2012 (Annexure P3), resolved that even those Junior Assistants who were in office on 01.01.1996, would also be entitled to higher scale and protection of pay etc. and not only those, who were in service prior to the cut off date i.e.01.01.1996. The said decision dated 16.05.2012 (Annexure P3), has since attained finality, as even an LPA No.1729 of 2012 preferred against the said decision and also the Special Leave Petition No.1110 of 2015, were dismissed on 05.02.2014 and 07.01.2015, respectively. In short, a mandamus is sought to the respondents to fix the pay of the petitioner w.e.f.01.01.1996 in the pay scale of ₹ 5000-8100/-, with all consequential benefits, in terms of the decisions dated 16.05.2012 and 05.02.2014 (Annexures P3 & P4) rendered by this Court.

Prior to the filing of the instant petition, petitioners purport to have represented to the Chief Engineer/Canals, Irrigation Works Punjab, Chandigarh, vide representation dated 19.05.2015 (Annexure P5), through proper channel. And in response, Superintending Engineer, Canal Lining Circle, Bathinda, vide letter dated 20.02.2014 (Annexure P6), has deferred the claim of the petitioners saying: “***application which has been received from the officials mentioned in the letter under reference, they are not party in the petition, therefore, the copy of the letter vide which this decision has been generalised may be sent to this office, so that the case may be forwarded to the Head Office for appropriate action.***”

Learned counsel for the petitioners submits that the inaction or non consideration of the claim of the petitioners at the instance of the respondents, is unjustifiable. Particularly, when in the decision rendered by this Court in CWP No.22422 of 2010, decided on 16.05.2012 (Annexure P3), the petitioners therein have already been extended the benefit prayed for, vide office order dated 09.03.2015 (Annexure P7). He submits that at this stage, let this petition be disposed of only with a direction to respondent No.3, to consider and decide the representation (Annexure P5) of the petitioner, within a specified time.

That being so, and, without expressing any opinion on merits and particularly as regards the issue of delay/limitation, if any, the instant petition is disposed of with a direction to respondent No.3, to consider and decide the claim of the petitioners as set out in their representation dated 19.05.2015 (Annexure P5), strictly, in accordance with law, within a period of three months, from the receipt of the certified copy of this order. Needless to assert, a comprehensive order shall be passed assigning reasons, in support of the decision arrived at.

28.05.2015

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(ARUN PALLI)
JUDGE