

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

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**Civil Writ Petition No.5065 of 2011
Date of decision: 08.05.2015**

Momi Ram(since deceased) through LR Petitioner

versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. R.K. Malik, Sr. Advocate with
 Ms. Rimple Soni Kadyan, Advocate
 for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

DAYA CHAUDHARY, J. (Oral)

Initially, the present petition was filed by Momi Ram(since deceased) and during pendency of the writ petition, he expired. Thereafter, Kuldeep Singh s/o Momi Ram has moved an application for bringing on record his legal representative which was allowed by this Court on 21.12.2011.

The case of the petitioner is that deceased-Momi Ram was transferred from Central Government to Haryana Government in the year 1977. Thereafter, he retired on attaining the age of superannuation on 31.10.1995. The State of Haryana reduced pay scale to NDSI and that decision of the Government was challenged before this Court in writ petition bearing CWP No.5816 of 1994 which was decided on

10.10.2007(Annexure P-11). Thereafter, State of Haryana filed LPA No.182 of 2008 which was dismissed on 11.01.2013(Annexure P-12).

Learned counsel for the petitioner submits that in compliance of decision passed by the Single Bench of this Court in CWP No.5816 of 1994 titled as 'National Fitness Corps Teachers Association vs. State of Haryana' as well as decision passed in LPA No.182 of 2008, the Education Department has restored the pay scale with retrospective effect vide order dated 05.11.2013. He further submits that the deceased-Momi Ram was granted benefit and after withdrawal of said benefit, recovery was effected from him. He also submits that in view of decision passed in CWP No.5816 of 1994, decided on 10.10.2007 (Annexure P-11) as well as decision passed in LPA No.182 of 2008, decided on 11.01.2013, the pay scales were restored w.e.f. July, 1976. He also submits that the case of the petitioner is squarely covered by the decision of the Single Bench as well as the decision passed in LPA but still the same has not been considered. It is also the argument of learned counsel for the petitioner that no recovery can be effected from the petitioner and other retiral benefits have to be revised as per decision dated 05.11.2013 (Annexure P-13).

Learned State counsel raised a preliminary objection that neither any specific prayer has been made in the petition nor any direction has been sought and without having any specific pleading or prayer, no relief can be granted.

Heard arguments advanced by learned counsel for the parties and also on perusal of the documents available on record including the decision passed in CWP No.5816 of 1994 and LPA No.182 of 2008.

Admittedly, the case of the petitioner is squarely covered by the

decision passed in CWP No.5816 of 1994 which has been decided on 10.10.2007 and LPA filed by the State which has been dismissed on 11.01.2013 as the issue and relief sought by the petitioner is identical in that petition.

Accordingly, the present petition is disposed of with a direction to the respondent-State to consider the case of the petitioner in view of decision passed in **CWP No.5816 of 1994 titled as 'National Fitness Corps Teachers Association vs. State of Haryana and others'**, decided on 10.10.2007 and pass necessary speaking order, in case, the petitioner is found to be entitled for the relief. The necessary exercise be done within a period of three months from the date of receipt of certified copy of this order and in case, the petitioner is found entitled for the relief, the same be granted within a period of three months thereafter. In case, the petitioner is still aggrieved in any manner, he is at liberty to avail appropriate remedy in accordance with law.

(DAYA CHAUDHARY)
JUDGE

May 08, 2015
sonia g.