

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 24824 of 2012 (O&M)

Date of decision : May 11, 2015

Sube Singh,

..... Petitioner

v.

State of Haryana and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. RS Sangwan, Advocate
for the petitioner.

Ms. Shruti Goel, AAG Haryana

- 1. Whether Reporters of Local Newspapers 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 ?**

Ajay Tewari, J (Oral)

By this writ petition, the petitioner has sought a mandamus directing the respondents to grant him increment w.e.f 1.1.2006.

Brief facts are that the petitioner retired on 30.4.2006 and prior to that, his date of increment every year was on 1st of May. After the implementation of the Sixth Pay Commission, it was decided by the government that all employees would get their increments w.e.f 1st July of every year. For those employees whose normal date of increment was after 1st July, it made no difference but for those employees whose normal date of

increment fell between 1st January and 30th June, this would have caused a loss. It was in these circumstances that the Finance Department of State of Haryana issued a letter bearing No.6/84/2010-4PR(FD), dated 16.04.2012 to the following effect :-

“ In accordance with the provision contained in the Rule 10 of Haryana Civil Services (Revised Pay) Rules, 2008 and under rule 20 of Haryana Civil Services (Assured Career Progression) Rules, 2008, there will be a uniform date of annual increment viz Ist July of every year. Employees completing 6 months and above in the revised pay structure as on Ist of July will be eligible to be granted the increment. The first increment after fixation of pay on 1.1.2006 in the revised pay structure will be granted on 1.7.2006 for those employees for whom the date of next increment was between Ist July 2006 to Ist January, 2007.

2. Whereas sections of those Government employees who were due to get their annual increment between February to June during 2006 have represented to set right the distortions/anomaly induced due to above said provisions of Rule 10 of Haryana Civil Services (Revised Pay) Rules, 2008 and under Rule 20 of Haryana Civil Services (Assured Career Progression) Rules, 2008.

3. On further consideration and in exercise of the powers vested under Rule 17 and Rule 19 of the Haryana Civil Services (Revised Pay) Rules, 2008 and Rule 26 and Rule 28 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 and all other powers enabling the Government so to do, the Government is pleased to decide that in relaxation of stipulation under Rule 10 of Haryana Civil Services (Revised Pay) Rules, 2008 and under Rule 20 of Haryana Civil Services (Assured Career Progression) Rules, 2008, those State Government employees who were due to get their annual increment between February to June, 2006 may be granted one increment on 01.01.2006 in the pre-revised pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 01.07.2006. The pay of the eligible employees may be re-fixed accordingly.

4. Those Government Employees who were drawing their pay at the verge of E.B in the pre-revised pay scale as on 01.01.2006, they shall be deemed to have crossed the E.B for the purpose of pay fixation under these orders.

This concludes the order.”

The precise claim of the petitioner is that since the petitioner was entitled to get his increment on 1st May, therefore, he should have been granted increment w.e.f 1.1.2006. The sole argument of counsel for the petitioner is that the aforesaid letter makes no distinction between those persons who may be in service or may have retired.

Counsel for the respondents has pointed out that a reading of the said letter makes it clear that the same was issued to grant relief to those persons who were otherwise in service and whose dates of increment fell between 1st January and 30th June because on the implementation of the Sixth Pay Commission, their date of increments would be delayed to 1st July. As per her, since the petitioner was not to earn further increment at all, there was no question of the applicability of the said letter to him and there was no requirement that this letter should mention specifically that it was not applicable to persons who were retired between 1st January and 30th June.

In my opinion, the arguments of learned Assistant Advocate General, Haryana have to prevail. Had it been a case where the petitioner's right to earn normal increment had accrued, of-course this letter would have been applicable but in the facts and circumstances of the case, the argument of counsel for the respondents has to be accepted. The petitioner would in normal course have retired and did indeed retire on 30.4.2006 and, therefore, was not prejudicially affected by the postponement of the date of increment to 1st July as per the recommendations of the Sixth Pay Commission. Consequently, it has to be held that the aforesaid letter did not apply to the persons like the petitioner.

No other point has been raised by counsel for the petitioner.

Consequently, finding no merit in this writ petition, the same is dismissed.

May 11, 2015
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(AJAY TEWARI)
JUDGE