

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

**CWP No.7007 of 2011
Date of decision: 04.12.2015**

Chandigarh Administration through Chief Engineer.

.....Petitioner

Versus

Sadhu Singh and another.

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE DARSHAN SINGH**

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

Present: Mr. Raghav Goel, Advocate for petitioner.
Mr. J.S. Sathi, Advocate for respondent No.1.

DARSHAN SINGH J.

The present civil writ petition under Articles 226/227 of the Constitution of India has been filed with a prayer to issue the writ in the nature of certiorari of setting aside the order dated 04.08.2009 passed in Original Application No.241/CH/2007 (hereinafter referred to as the 'OA') by the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as the 'Tribunal') vide which the OA filed by respondent No.1 has been allowed, directing the fixation of his pay at ₹14700/- w.e.f. 01.01.1996.

2. The present petition has arisen out of OA No.241/CH/2007 filed by respondent No.1 Sadhu Singh, wherein he has pleaded that he

joined the services of the petitioner as Sectional Officer on 20.04.1967 and was promoted as Sub Divisional Engineer on 14.04.1988 in the basic pay scale of ₹400-1100. He was given the senior scale of ₹3700-5300 vide order dated 04.09.1997 w.e.f. 14.04.1995 on completion of 18 years of service as S.D.E. with change of designation as Deputy Executive Engineer. He was further promoted as Executive Engineer on 28.11.1996. In the year 1998, three FIRs were registered against 15 officials of the department including respondent No.1 and he was placed under suspension. He was allowed to retire while still under suspension w.e.f. 30.11.2003. In the Original Application, the respondent No.1 has claimed the issuance of appropriate order or direction, directing the petitioner to refund the illegal deduction made by them while re-affixing his pay in terms of the order of the Tribunal dated 13.02.2006 passed in OA No.405/CH/2004, for fixing of the pay of respondent No.1 in the pay scale of ₹14300-18110 at the stage of ₹14700/- with one increment due as on 01.01.1996 raising his pay at the level of ₹15100/-, and to direct the petitioner to re-fix his pay and pension with all consequential benefits.

3. It was further pleaded that there was no order passed by the petitioner withholding the increments of respondent No.1 at the time of suspension or subsequently. So, the amount of increment which has been legally sanctioned by the competent authority cannot be withdrawn. It was further pleaded that prior to re-affixing of his revised pay, he was in the pay scale of ₹3700-5300 as on 14.04.1995 and was drawing a pay of ₹3900/- which is required to be fixed at the stage of ₹14700-18150 as his

pay on 01.01.1996 was ₹4125/- as reflected in the service book.

4. The claim of respondent No.1 was contested by the petitioner on the grounds that the pay of respondent No.1 was rightly fixed at ₹14300/- in the pay scale ₹14300-18150 as on 01.01.1996. The petitioner pleaded that respondent No.1 was not entitled for fixing of his pay as ₹14700/- as on 01.01.1996 as he was working in the pay scale of ₹12000-16350 and was drawing the basic pay of ₹12750/- as on 01.01.1996. Thereafter, in the revised pay scale of ₹14300-18150 his pay was rightly fixed on completion of 18 years of service at ₹14300/-.

5. In the impugned order dated 04.08.2009, the learned Tribunal accepted the plea of respondent No.1 that his pay should have been fixed at ₹14700/- w.e.f. 01.01.1996. It should have been further raised to ₹15100/- w.e.f. 01.04.1996. Therefore, the order fixing the pay of respondent No.1 at ₹14300/- as on 01.01.1996 was held to be erroneous and was quashed. His pay was directed to be re-fixed. As per the above observations, it was further ordered that the recovery if any made from the applicant on this account be refunded to him within two months from the date of receipt of the order. The learned Tribunal did not issue any direction with respect to the grant of any increment w.e.f. 01.01.1999 and the release of the retiral benefit in view of the pendency of the criminal cases against respondent No.1.

6. Aggrieved with the aforesaid order of the Tribunal directing the petitioner to fix the pay of respondent No.1 at ₹14700/- w.e.f. 01.01.1996, present writ petition has been filed.

7. We have heard Mr. Raghav Goel, Advocate, learned counsel for the petitioner, Mr. J.S. Sathi, Advocate, learned counsel for respondent No.1 and have meticulously gone through the paper-book.

8. Learned counsel for the petitioner contended that the pay of respondent No.1 was rightly fixed by the petitioner at the rate of ₹14300/- w.e.f. 01.01.1996 as he was working in the pay scale of ₹12000-16350 and was drawing the basic pay of ₹12750/- as on 01.01.1996. On account of completion of 18 years of service, his pay was rightly fixed at ₹14300/-, which is perfectly in accordance with rules.

9. On the other hand, learned counsel for respondent No.1 contended that respondent No.1 was drawing the basic pay of ₹4125/- as on 01.01.1996 and was the 4th stage of the pre-revised pay scale and as per the Notification dated 16.01.1998 issued by the Department of Finance, Government of Punjab, which was adopted by the Chandigarh Administration, the government employee who was drawing the pay from 4th up to 6th stage in the existing scale were entitled for one increment. Thus, he contended that learned Tribunal has rightly ordered for fixing of the pay of respondent No.1 at ₹14700/- w.e.f. 01.01.1996 by grant of one annual increment and to further raise the same to ₹15100/- w.e.f. 01.04.1996.

10. We have duly considered the aforesaid contentions.

11. Annexure A-2 attached with Annexure P-6 (copy of OA) is the pay fixation-sheet of respondent No.1, which shows that the

petitioner was granted the senior scale of ₹3700-5300 vide office order dated 04.09.1997 on completion of 18 years of service and his basic pay was fixed at ₹ 4000/- w.e.f. 14.04.1995. The pay fixation table available at page No.105 of the paper-book shows that the pre-revised pay scale of ₹3700-100-4000-125-5000-150-5300 was revised to ₹14300-400-15900-420-18150. As per this pay fixation table, the conversion of basic pay of ₹4000/- comes to ₹14700/- in the revised pay scale of ₹14300-18150. Learned counsel for the petitioner could not point out any error or mistake in the aforesaid pay fixation table relied upon by respondent No.1. Thus, the learned Tribunal has rightly observed that the pay of respondent No.1 should have been fixed at ₹14700/- as on 01.01.1996 and after the grant of selection grade the date of the next annual increment stands shifted to 01.04.1996. After granting the annual increment his pay has to be fixed at ₹15100/- w.e.f. 01.04.1996.

12. We do not find any illegality in the aforesaid findings of the learned Tribunal, warranting any interference of this Court.

13. Resultantly, the present writ petition is without any merits and the same is hereby dismissed.

(M. JEYAPPAUL)
JUDGE

(DARSHAN SINGH)
JUDGE

04.12.2015
sunil yadav