

**Sr. No. 126
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.25999 of 2015
Date of decision:11.12.2015**

Sh. Sarabjit Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.S.Bhatti, Advocate,
for the petitioner.

- 1. To be referred to the Reporters or not?*
- 2. Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J.(Oral)

The singular issue raised in the petition is with respect to entitlement to annual increments and, accordingly, for payment of the arrears arising out of the recommendations of the 6th Punjab Pay Commission as accepted by the State Government.

The brief facts are these: the petitioner was appointed as a ETT teacher in December, 2006 with a probationary period of two years. He cleared the probation period successfully in January, 2009. It is well settled that successful completion of the probation period relates back to the original appointment and service benefits are to accrue from the date of appointment. This would include increments which are based on length of service. In this manner, the petitioner claims the monetary value of past increments added to his pay and allowances and resulting in the benefits under the 6th Punjab Pay Commission percolating to him. The benefit of increments earned

during the period of probation have not been granted to the petitioner which appears to be ex facie against the provisions of the Punjab Civil Services Rules read with the provisions of Punjab Panchayati Raj Primary Teachers (Recruitment and Service) Rules, 2006 and the instructions issued on the subject by the Punjab Government from time to time. The petitioner has filed a representation claiming the benefit but it remains pending consideration.

The maximum period of probation fixed under the 2006 Rules is 3 years under Rule 15. The petitioner applied under the Right to Information Act, 2005 for supply of information from the office of Block Development and Panchayat Officer, Bhunga, District Hoshiarpur and in response to the application received by his counsel information has been supplied on 07.09.2015, which discloses that the petitioner cleared his period of probation vide letter No. 3099 dated 13.12.2014, passed by the Chief Executive Engineer, Zila Parishad, Hoshiarpur and, therefore, the arrears of pay under the 6th Punjab Pay Commission have not been given to him due to non-completion of the period of probation and hence annual increments for the period claimed have been granted to him. It is apparent from this communication, when tested on Rules that the petitioner has been wronged by misconstruing facts. In not granting him the benefit of the annual increments falling due during the period of probation which he has cleared within the time prescribed is a matter of concern. No order has been communicated to him that his period of probation was extended for want of satisfactory work and conduct during the period of probation which may justify postponing the right

to increments. In absence of any inhibiting reason, the petitioner appears to have a prima facie case. At this juncture, learned counsel submits that his client would be satisfied if a direction is issued to the decision-maker amongst the respondents to take a final decision on his representation and to consider and decide his grievance by passing a reasoned order, containing reasons for the conclusions reached.

The request of the petitioner is fair enough and, therefore, a direction is issued to the respondent decision-maker to take up representation/request of the petitioner immediately and to decide the same within one month from the date of receipt of a certified copy of this order and the competent authority would pass a speaking order.

Needless to add that in case the benefits are due and required to be granted then it will not be necessary for the decision-maker to either hear the petitioner or pass a speaking order and the benefits claimed can be handed over to him by passing office orders. In case, this is done, then the monetary benefits claimed and due be paid to the petitioner within the next two months by crediting the money into his account. However, in case an adverse order is contemplated to be passed against the petitioner, then there would be necessity of complying with the principles of natural justice. The petitioner would be heard and a reasoned order will be passed within one month as indicated above. In case, an adverse order is to be passed, it will be communicated to the petitioner forthwith.

With these observations and directions issued, the

petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

11.12.2015
vandana