

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.446 of 2015 (O&M)

Date of Decision:-24.03.2015

State of Punjab and others

.....Appellants

Versus

Paul Mohinder Singh and others

.....Respondents

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. K.K. Gupta, Addl. A.G., Punjab,
for the appellants.

SATISH KUMAR MITTAL, J.(Oral)

The State of Punjab has filed this intra court appeal under Clause X of the Letters Patent against the judgment dated 26.09.2011 passed by the learned Single Judge disposing of the writ petition (CWP No.15781 of 2001) filed by respondents No.1 to 15 directing the appellants to consider the claim of those respondents with regard to parity of pay with other officials working in their counterpart department of the State Government in light of the decision rendered by a Division Bench of this Court in *S.K. Yadav and others vs. State of Haryana*, (CWP No.4216 of 2011) decided on 09.07.2002, within the prescribed period. The said order was passed in view of the admitted fact that the writ petition (CWP No.4468 of 1992) filed by similarly situated employees was earlier disposed of with

a direction to the State Government to consider their claim which was similar to the claim as made by the respondents herein in light of the aforesaid *S.K. Yadav's* case. It is also an admitted position that keeping in view the said direction, the relief was granted to those petitioners (petitioners of CWP No.4468 of 1992). In view of the said admitted facts, by the impugned order the writ petition filed by the respondents herein was disposed of.

Initially, the State Government was satisfied with the impugned order. They did not challenge or raise any grouse or seek clarification of any part of the order. They remained silent for 3-1/2 years. Now in the year 2015 they filed an application (C.M. No.1272 of 2015 in C.W.P. No.15781 of 2001) for clarification of the impugned order. The learned Single Judge dismissed the said application on February 06, 2015 while observing as under:-

“....When a direction was sought from the learned Single Judge in terms of *S.K. Yadav's* case, the learned State counsel had no objection to the prayer made. A direction was accordingly issued to the respondents to consider the case of the petitioner in the light of *S.K. Yadav's* case within a period of one month from the date of the order, i.e., 26.9.2011.

The petition was disposed of with the aforesaid direction. The difference between the two petitions was clearly brought out by the fact that in one case, an order was passed creating a fresh cause of action and, therefore, the petitioner was relegated to his remedy of taking recourse to law either before the competent authority in the State Government or in a Court of law.

Even in CWP No.4468 of 1992, a grievance was expressed that the order of the FC (D) did not allow arrears due to pay fixation but that did not mean that the Court expressed an opinion on the veracity of the claim.

Today, the State while facing contempt proceedings has approached this Court in this application for clarification urging that since the petitioner in CWP No.4468 of 1992 has not resorted to litigation, he would not be entitled to arrears.

This argument has only to be noticed and rejected. Order dated 26.9.2011 in CWP No.4468 of 1992 created no rights or liabilities and, therefore, I find no ground to clarify the order passed in CWP No.15781 of 2001.

The application is accordingly dismissed.”

Now, feeling aggrieved against the said order as well as against the order dated 26.09.2011 passed in the writ petition (CWP No.15781 of 2001) the present appeal has been filed which is barred by limitation of 1237 days. Accordingly, an application (CM No.917-LPA of 2015) has been filed for condoning the delay in filing the appeal.

We have gone through the application. No reasonable explanation has been given for such a long delay. Even otherwise, we have considered the matter on merits and we do not find any ground to interfere in the impugned orders dated 26.09.2011 and 06.02.2015. In our view, there is no ambiguity in the orders. The only direction given by the learned Single Judge was to consider the claim of the respondents herein in light of *S.K. Yadav's* case as in an earlier case on the similar direction the claim of the similarly situated employees had been accepted by the Department. However, as the petitioners in that case had not been granted arrears due to

pay fixation while disposing of the petition as infructuous, the petitioners were given liberty to challenge the said order.

As far as the present case is concerned, no order has been passed in pursuance of the direction given by the learned Single Judge. Therefore, the apprehension of the appellants that there was a direction to pay the arrears, is totally misplaced and misconceived. This appeal has been filed without any substance. Therefore, finding no merit, the same is hereby dismissed.

(SATISH KUMAR MITTAL)
JUDGE

March 24, 2015
vkg

(HARINDER SINGH SIDHU)
JUDGE