

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

Civil Writ Petition No.13399 of 1993

Date of decision: 25.5.2016

Ashok Kumar and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Chanchal K. Singla, Advocate for
Mr. J.S.Randhawa, Advocate for the petitioners.

Mr. L.S.Virk, Addl. Advocate General, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioners seek relief of grant of one pre-mature increment on account of non participation in the strike observed by the Punjab Government employees on 8.2.1978 on the plea that their services have been regularized from time to time.

The said issue came up for consideration before the Apex Court in **Civil Appeal Nos.3487-3492 of 2004-State of Punjab and others Vs. Surinder Singh and others** decided on 12.2.2015. The Apex Court while noticing that the Full Bench of this Court in **Saroj Kumari Vs. State of Punjab 1998(3) Service Cases Today 664** had decided the issue and persons who were regularized prior or upto to 8.2.1978 were to be given benefit. Resultantly, the appeals were allowed and the order dated 12.9.2003 passed by the Division Bench which was subject matter of appeal was set aside. Relevant portion of the order reads as under:-

“7. Having said that, we think it appropriate to refer to the second principle that has been laid down by the Full Bench in paragraph 18 of the said judgment. It reads as follows:-

“18. So far as the point raised by the learned counsel for the petitioner that those ad hoc employees who had yet not been regularised by February 8, 1978, were also granted the benefit of premature increment though they might have been regularised later on but w.e.f. a date prior to or up-to February 8, 1978, and, therefore, the petitioners who were also regularised though much after February 8, 1978, should not be discriminated against, we find no force in this argument. Those ad hoc employees who were liable to be regularised on or before February 8, 1978, but for no fault of theirs no orders had been passed were held entitled to the benefit by the Government as if in fact they were regular employees as on February 8, 1978. In other words, the benefit has only been given of premature increment to regular or virtually regular employees who were there as such on February 8, 1978.”

8. The aforesaid paragraph carves out a situation that if an employee is regularized at a later stage but with effect from the date when the strike took place, he will be entitled to the benefit of premature increment. The facts are not clear in this regard and therefore, we would like the competent authority of the State Government to scrutinize the cases of each of the respondents in the backdrop of para 18 of the Full Bench which we have reproduced hereinabove within a period of three months and communicate to them.

9. Resultantly, the appeals are allowed to the extent indicated above and the order dated 17.1.2002 passed by the Division Bench in Civil Writ Petition No.19057 and order dated 12.9.2003 passed in Review Petition No.329 of 2002 are set aside. The competent authority shall decide the matter as directed hereinabove. In the facts and circumstances of the case, there shall be no order as to costs.”

The petitioners were regularized and their detail of regularisation are mentioned in Annexure P/1. It is not disputed that the regularisation orders of the petitioners in the present case are after 8.2.1978.

Keeping in view the observations of the Apex Court in **Surinder Singh's** case (supra) and admitted fact in the present case that the

services of the petitioners were regularized after 8.2.1978, they are held not entitled for the benefit of pre-mature increment.

Accordingly, the present writ petition is dismissed.

May 25, 2016
Pka

(G.S.SANDHAWALIA)
Judge