

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

Date of decision: 17.03.2016

CWP No.5980 of 1995 (O&M)

Rajiv Walia

...Petitioner

Vs.

Punjab Housing Development Board

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.K.Walia, Advocate, for the petitioner.

Mr. R.S.Khosla, Senior Advocate, with
Mr. K.S.Kamrat, Advocate, for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

There are two insuperable hurdles in the way of the petitioner for grant of relief prayed. These are two orders; one judicial, the other administrative i.e. Annex R-1, which is a decision of this Court dated 19th March, 1996 delivered in the case of the petitioner (CWP No.5980 of 1995) permitting him to lay challenge to the office order 17th August, 1995, and Annex P-12, an order dated 17th August, 1995 passed by the Punjab Urban Planning and Development Authority, Chandigarh, which operates prospectively and denies retrospective benefits of pay revision.

The petitioner was an employee of the Punjab Housing Board, who was absorbed in Punjab Urban Planning and Development Authority (PUDA) in terms of the Punjab Regional and Town Planning and Development Acct, 1995 with protections afforded to Housing Board employees under

Section 150 of the said Act when Housing Board merged with PUDA. The relevant Section is as follows:

“150 (1) Every whole time employee of the Punjab Housing Development Board (hereinafter referred to as the employee of the Board) shall, on and from the date of its abolition under sub-section (1) of Section 148, become an employee of the Authority and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges, if any, other matters as he would have held the same on the said date, if this Act had not come into force and shall continue to do so unless and until his remuneration, terms and conditions are duly altered by the Authority with the previous approval of the State Government.”

The post occupied by the petitioner in Housing Board was an isolated post of Assistant Research Officer. Housing Board had decided in 1990 to equate pay scales including that of Assistant Research Officer with corresponding posts in Public Works Department, Punjab, but not the Irrigation department. This was done by resolution of the erstwhile Board. It transpired that in the Public Works Department, Punjab the post of Assistant Research Officer did not exist. Be that as it may, the petitioner does not dispute placement in the revised pay scale which is to his benefit.

The prayer in this petition is limited to grant of retrospective monetary benefits of conferring pay scales in the Irrigation Department, Punjab where there is a post of Assistant Research Officer. The claim is staked retroactively to about 3 years prior to 1st January, 1994. In the absence of challenge to the adverse order dated 17th August, 1995, which liberty was granted by this Court, but not availed and in the face of PUDA order passed at

Annex P-12, no monetary relief anterior to 1994 appears to flow or is admissible to the petitioner.

If the notification (Annex P-15) mentions the scale of pay in relation to the Irrigation Department while speaking of pay scale of Assistant Research Officer then it has to be read with effect from 1st January, 1996. Therefore, the petitioner cannot take advantage of the notification to take it back to 1991 to reap a benefit prior to creation of PUDA and which was not available in the Housing Board.

The petitioner's reliance on the Supreme Court judgment placed at Annex P-13 is wholly misconceived since the authority did not involve an issue peculiar to the instant case or any right as claimed herein relating to Housing Board and its amalgamation with the Punjab Urban Planning and Development Authority with respect to the solitary post held by the petitioner. The case is distinguishable on facts and will not come in aid of the prayer of the petitioner.

Consequently, the present petition is found totally devoid of merit and is accordingly dismissed for the reasons recorded.

17.03.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE