

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

**CWP No.18471 of 2011
Date of decision:18.5.2016**

Sadiq Hussain Naqvi & ors. ... Petitioners

Versus

The Punjab Wakf Board & anr. ... Respondents

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

Present: Mr. Dinesh Kumar, Advocate,
for the petitioners.

Mr. SK Jain, Advocate,
for the respondents.

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

RAJIV NARAIN RAINA, J.(Oral)

1. An affidavit of Shri Danishwar Ali, Additional Law Officer, Punjab Wakf Board, Chandigarh, has been filed in Court, which is taken on record. It has been explained therein that relief was granted only to the petitioners who approached this Court in CWP No.4060 of 2012 (Abdul Shaheed Usmani and others vs. Punjab Wakf Board and another) and the arrears of revised pay scales have been paid to them rendering the petition infructuous on December 10, 2015 when statement was made before the Court that necessary relief has been granted and the petition was withdrawn. However, a distinction is made in the affidavit between that case and the case of the petitioners to deny them similar relief on the ground that they are retired employees while petitioners in the aforesaid petition were in service and therefore, they are not entitled to the same relief as per the resolution of the Punjab Wakf Board passed on July 6, 2010 (Annex. P-5) rejecting the claim of the present petitioners.

2. Having regard to the resolution dated July 6, 2010, I find no valid reason contained therein to deny the claim of the petitioners when the revision took place with effect from January 1, 2006 on which date they were in service. The dates of the retirement of the 10 petitioners are mentioned in paragraph 2 of the petition which ranges from January 30, 2006 to June, 2010, the last of which dates is admittedly one day prior to the adoption of the revised pay scales by the Punjab Wakf Board. The classification made by the respondent Board is unreasonable. Both the retired persons and those in service form a homogeneous class with reference to the date the revision of pay scales relates to. Adoption of pay scales by the Wakf Board in 2010 would relate back to the revision in 2006 especially when necessary relief has been afforded to others. Hence the petitioners are held entitled to the pay revision since they had retired after January 1, 2006. There are no distinguishing features in the present case from the case of the petitioners in CWP No.4060 of 2012.

3. This petition is allowed. The pay of the petitioners be refixed and accordingly, enhanced gratuity and leave encashment be paid to them within a period of three months from the date of receipt of a certified copy of this order. If any other benefits flow from this order, they will also be given to the petitioners.

4. The issue of presence of Mr. S.K. Jain, Advocate and Mr. Deepak Jain, Advocate, in CWP No.4060 of 2012 on behalf of the Punjab Wakf Board is not gone into. It may again be mentioned that CWP No.4060 of 2012 was withdrawn as relief had been granted and the noting-sheets obtained by the petitioners through Right to Information

Act, 2005 have been produced and are taken on record as Mark 'A'. This certifies implementation of the statement made that relief stands granted to the petitioners in the aforesaid case on the date when the writ petition was dismissed as withdrawn.

(RAJIV NARAIN RAINA)
JUDGE

18.5.2016
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