

C.M. No. 11618 of 2016 and
C.W.P No. 16932 of 2013 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M. No. 11618 of 2016 and
C.W.P No. 16932 of 2013 (O&M)

DATE OF DECISION:30.11.2016

Jagmeet Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.K. Rattan, Advocate and
Mr. Sunny Singla, Advocate
for the applicant-petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed for issuance of a writ in the nature of certiorari for quashing impugned order dated 2.5.2012 (Annexure P-5) whereby the claim of the petitioners for restoration of their pay fixation which was earlier reduced as per audit objection, has been declined. An alternative prayer has also been made for issuance of directions to the respondents to allow the petitioner to change their option for grant of revised pay scale w.e.f. 1.11.2006 instead of their earlier option exercised w.e.f. 1.1.2006 in terms of Punjab Civil Services (Revised Pay Scales) Rules, 2009.

The petition was admitted by this Court on 12.5.2014. During

pendency of this petition, an application has been moved for hearing of the main case on some actual date and dispose of the same in terms of orders dated 11.3.2016 and 18.5.2016 (Annexures A-1 and A-2) annexed with the application as the issue and the law point involved in the case in hand is identical to both the petitions already decided by this Court.

Notice in the application was issued to counsel opposite.

As per submission made by learned counsel for the applicant-petitioners, the case is squarely covered by the decision rendered by this Court in C.W.P. No. 18644 of 2015 and other connected cases decided on 11.3.2016.

Learned State counsel has not disputed the decision rendered in C.W.P. Nos. 18644 of 2015 and C.W.P. No. 9805 of 2016 decided on 11.3.2016 and 18.5.2016, respectively.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file as well as judgment in both the cases as mentioned above which have been annexed with the application.

The claim in the present petition is for grant of second opportunity to exercise option by changing the first option from 1.1.2006 to 1.11.2006. The change is requested on the ground of loss of pay, reduction on account of audit objection in the pay fixation of the petitioners w.e.f. 1.1.2006, which has resulted in grant of lesser pay to the petitioners than their juniors in the same cadre. Due to subsequent change in the pay fixation of the petitioners, the basis of option exercised in the first instance has been removed by supervening events, which revives right to make a fresh option. This right has been denied by forcing the petitioners to take legal recourse

by way of the instant petition.

The claim of the petitioners is squarely covered by the decision rendered by this Court in C.W.P. No. 18644 of 2015. The relevant portion of the judgment is reproduced as under:-

“The issue is no longer *res integra* as it has received judicial recognition in the Division Bench judgment of this Court rendered in **Randhir Kaur & others v. State of Haryana & others**, 2003 (2) SCT 240. The principle is proliferated in a Single Bench decision also relied upon by the petitioner delivered in CWP No.7464 of 2010 titled ‘**Surinder Kumar & others Vs. State of Punjab & others**’ on 25th February, 2010. In view of the declaration of law, the present petition would eminently be covered by the same principle.

4. However, in the matter of grant of relief, the same will remain restricted in terms of para.10 of *Surinder Kumar’s case* the operative passage of which is reproduced as under:

“(10). Consequently, the writ petitions are allowed in part to the extent that while the respondents are directed to permit the petitioners to re-exercise their options in terms of the Finance Department’s Circular dated 24.12.1992 (Annexure P1) within a period of one month from the date of receipt of a certified copy of this order, no resultant arrears of pay shall be paid to them and they shall be entitled to only the notional pay fixation w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006, as the case may

be. The petitioners, however, shall be paid emoluments/pension as per the re-fixed pay w.e.f. 01.03.2010 onwards.”

5. As a result, the writ petitions are allowed in the same terms and the benefits arising out of change of option will be notional. The respondents are directed to obtain fresh option from the petitioners within a fortnight and process the case within one month thereafter to completion. However, the petitioners shall be paid emoluments/pension as per the re-fixed pay from the date of presentation of these petitions and regularly thereafter.

Accordingly, the present petition is allowed in the same terms as in C.W.P. No. 18644 of 2015 and C.W.P. No. 9805 of 2016 decided on 11.3.2016 and 18.5.2016, respectively, and the benefits arising out of change of option will be notional. The respondents are directed to obtain fresh options from the petitioners within a period of one month from the date of receipt of copy of the order and process the same within a period of one month thereafter. However, the petitioners shall be paid salary as per revised pay counted from the date of filing of this petition.

November 30, 2016
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes