

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

**CWP No.22112 of 2012
Date of decision: 23.09.2016**

Sunita Rani and another

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Vivek Sharma, Advocate
for the petitioners.

Mr. Avinit Avasthi, AAG, Punjab
for the respondents -State.

Daya Chaudhary, J.

Petitioners have approached this Court by way of filing the present writ petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of order dated 13.07.2012 (Annexures P-8 and P-9) issued by the respondents, whereby, the pay and seniority of the petitioners have been fixed w.e.f.13.07.2004 whereas the similarly situated persons have been given appointment w.e.f.13.12.2001 as is clear from order dated 14.07.2009 (Annexure P-11). A further prayer has also been made for issuance of direction to the respondents to fix the pay and seniority of the petitioners with effect from the date their juniors have been appointed i.e., 13.12.2001 along with all consequential benefits.

The grievance of the petitioners is that the respondents have delayed their appointment without any reason, due to which, their juniors or other similarly situated persons have been appointed in the year 2001

whereas the petitioners were appointed in the year 2008 and 2006, respectively. The petitioners earlier filed CWP No.2741 of 2002, which was disposed of vide order dated 12.02.2002 with a direction to the respondents to pass a speaking order on the representation moved by the petitioners within a period of three months from the date of receipt of copy of said order. The case of the petitioners was not considered in spite of directions given by this Court and they filed COCP No.833 of 2002. During pendency of the contempt petition, the claim of the petitioners with regard to appointment was rejected vide order dated 07.08.2002. Thereafter, again the petitioners approached this Court by way of filing CWP No.16328 of 2002, which was allowed vide order dated 15.07.2004 with a direction to the respondents to issue appointment letters to the petitioners. Thereafter, the petitioners were appointed on 20.03.2008 and 15.06.2006, respectively. The petitioners made representation for fixing of their pay with effect from the date their juniors were appointed. The petitioners were granted benefit of seniority with notional benefits w.e.f.16.07.2004 but they were not granted benefit of fixation of pay from the date their juniors were appointed. When benefits have not been granted to the petitioners, the petitioners have approached this Court by way of filing the present writ petition.

Learned counsel for the petitioners submits that the case of the petitioners is squarely covered by the ratio of judgment rendered by this Court in **CWP No.10859 of 2007** titled as '**Karamjit Singh vs. State of Punjab and others**' decided on **04.08.2008** (Annexure P-10). Learned counsel also submits that the petitioners are entitled for notional benefits of pay fixation by granting benefit of annual increments as has been given to

granted.

Learned State counsel has not disputed the decision rendered by this Court in **Karamjit Singh's case (supra)**.

Heard arguments of learned counsel for the petitioners as well as learned State counsel and have also perused the impugned order and other documents available on the file.

The facts with regard to filing of writ petitions by the petitioners and direction issued by this Court as well as the order of rejection are not disputed. It is also not disputed that the petitioners are senior to the persons, who have been appointed and have been granted consequential benefits. It is also not disputed that the respondents have delayed the appointment of the petitioners on the pretext that no post of Orthopedic Handicapped Category is available whereas posts of this category were lying vacant. The petitioners were issued appointment letters on 12.02.2002 but they were not allowed to join till 2008 and 2006. The respondents issued order dated 13.07.2012 with regard to the petitioners and for fixation of their seniority with notional benefits w.e.f.16.07.2004 but they were not granted benefit of fixation of pay with effect from the date their juniors have been appointed. It is also not disputed that the similarly situated persons approached this Court by way of filing CWP No.10859 of 2007, which was allowed with a direction to the respondents to give notional benefits of pay fixation by giving benefit of annual increments as granted to other similarly situated physically handicapped candidates.

Admittedly the case of the petitioners is squarely covered by the ratio of judgment rendered by this Court in **Karamjit Singh's case**

(supra) and the same has not been disputed by learned State counsel.

Accordingly, the present writ petition is allowed and the respondents are directed to give notional benefit of pay fixation to the petitioners by giving them benefit of annual increments as has been given to other similarly situated physically handicapped candidates, to whom appointment was given immediately after declaration of the result in view of judgment rendered by this Court in **Karamjit Singh's case (supra)** within a period of two months from the date of receipt of certified copy of this order.

23.09.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No