

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

**CWP No. 21845 of 2014
Date of Decision:- 09.11.2016**

Jugal Kishore and another

....Petitioners

VS.

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sunny Singla, Advocate,
for the petitioners.

Mr. L.S. Virk, Addl.A.G., Punjab.

DAYA CHAUDHARY, J. (Oral)

The prayer in the present petition is for issuance of a writ in the nature of Mandamus directing respondents to grant benefit of pay-revision to the petitioners w.e.f. 1.11.1971 instead of 16.7.1975 in view of judgment passed in CWP No. 2208 of 1989 decided on 24.3.2009 (Annexure P-2) and also to re-fix their pay accordingly in view of instructions dated 17.7.2002 (Annexure P-3).

In response to notice of motion, reply has been filed by way of short affidavit of Assistant Director, Office of Director Public Instructions, Punjab. The stand taken in para No.3 of the written statement is reproduced as under:-

“3. That in this regard it is submitted that District

Education Officer (SE) Mansa has decided the representation submitted by the petitioner. The District Education Officer (SE) Mansa has passed a well reasoned speaking order vide letter no. A-1/1() 2016-17/speaking orders/1467-70 Dated 26.05.2016/27.05.2016 wherein the claim of petitioner no.1 regarding benefit of pay revision w.e.f. 1.11.1971 instead of 16.7.1975 has been accepted. Pay of the petitioner has been fixed as per speaking order issued by the District Education Officer, (SE) Mansa, but no benefit has been occurred to the petitioner (Annexure R-1).

The claim has already been given to petitioner no. 2 vide memo no. 20/89-89 E-2(1) Dated 20-07-2010. The detailed position has been explained in Letter No. E-3/1 () 2016-17/speaking orders/1905 Dated 13-06-2016 (Annexure R-2).”

Learned counsel for the petitioners submits that in view of stand taken in the written statement, the necessary relief has been granted to the petitioners but no arrears have been paid. Under similar circumstances, petitioners approached this Court by way of filing CWP No. 26542 of 2013 titled as **Darshan Singh and others vs. State of Punjab and others**, decided on 12.12.2013. In that case also, the prayer was for grant of benefit of pay revision w.e.f. 1.11.1971 instead of 16.7.1975 and the arrears of revised pension and pensionary benefits were granted to the petitioners for a period of 38 months prior to date of filing of the writ petition.

Learned State counsel has not disputed the order passed in CWP No. 26542 of 2013.

Heard arguments of learned counsel for the parties and have also perused the order passed in CWP No. 26542 of 2013. Undisputedly, the same relief has been prayed for in the aforesaid petition and the same was disposed of with a direction to grant arrears of revised pensionary benefits for a period of 38 months prior to date of filing of said writ petition. The relevant portion of said judgment is reproduced as under:-

“Since there has been a considerable delay on the part of the petitioners in having approached this Court, it is clarified that in case the claim of the petitioners is found to be covered under the judgment passed in **Lekh Raj Khara's case (supra)**, it shall be open for the respondent-authorities to grant to the petitioners the requisite benefit of pay fixation only on a notional basis and to thereafter grant to the petitioners the revised pensionary benefits based upon such notional pay fixation. It would also be open for the respondents to confine the benefit of arrears of the revised pensionary benefits to a period of 38 months prior to the date of filing of the instant writ petition.”

Learned State counsel has brought to the notice of this Court order dated 10.6.2016 (Annexure R-1/T) passed by the respondents whereby the pay/pensionary benefits have been re-fixed and not only the annual increments have been granted but the pay has also been re-fixed by

considering the new pay-scale and special increment. The benefit of revised pay-scale as well as proficiency step-up has also been granted.

Accordingly, the present petition is disposed of with a direction that in case, the petitioners are being granted the revised pensionary benefits after re-fixing of their pay, then they are not entitled for any re-fixation and, in case, the pensionary benefits have not been re-fixed, then the necessary relief be granted to them within a period of three months from the date of receipt of copy of this order.

November 09, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes