

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

- (1) CWP No.25992 of 2015**
- Kuldeep Singh & others ... Petitioners
- Versus
- State of Punjab & others ... Respondents
- (2) CWP No.27223 of 2015**
- Bikram Singh ... Petitioner
- Versus
- State of Punjab & others ... Respondents
- (3) CWP No.27234 of 2015**
- Krishan Gopal ... Petitioner
- Versus
- State of Punjab & others ... Respondents
- (4) CWP No.27297 of 2015**
- Natha Singh ... Petitioner
- Versus
- State of Punjab & others ... Respondents
- (5) CWP No.27355 of 2015**
- Ajmer Singh ... Petitioner
- Versus
- State of Punjab & others ... Respondents

- (6)

CWP No.27454 of 2015

Darshan Lal

... Petitioner

Versus

State of Punjab & others

... Respondents
- (7)

CWP No.27464 of 2015

Ramesh Chand

... Petitioner

Versus

State of Punjab & others

... Respondents
- (8)

CWP No.529 of 2016

Gurbax Singh & others

... Petitioners

Versus

State of Punjab & others

... Respondents
- (9)

CWP No.2175 of 2016

Prem Chand

... Petitioner

Versus

State of Punjab & others

... Respondents
- (10)

CWP No.3787 of 2016

Piara Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

(11)

CWP No.4527 of 2016

Sabhajit & others

... Petitioners

Versus

State of Punjab & others

... Respondents

(12)

CWP No.4551 of 2016

Satnam Singh & others

... Petitioners

Versus

State of Punjab & others

... Respondents

(13)

CWP No.4611 of 2016

Kartar Singh & others

... Petitioners

Versus

State of Punjab & others

... Respondents

(14)

CWP No.5572 of 2016

Dharam Pal

... Petitioner

Versus

State of Punjab & others

... Respondents

Decided on : 28.04.2016

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.M.K.Dogra, Advocate
and Ms.Natasha Munjal, Advocate,
Mr.H.S.Saini, Advocate,
Mr.C.M.Chopra, Advocate, for the petitioners.

Mr.Avinit Avasthi, AAG, Punjab
Mr.Anshul Gupta, AAG, Punjab.

Mr.Pranav Chadha, Advocate,
for respondents No.2 & 4 (in CWP-2175-2016).

G.S. Sandhawalia, J. (Oral)

This order shall dispose of 14 writ petitions, bearing, CWP-25992, 27223, 27234, 27297, 27355, 27454 & 27464-2015, 529, 2175, 3787, 4527, 4551, 4611 & 5572-2016, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-25992-2015 titled *Kuldeep Singh & others Vs. State of Punjab & others* and CWP-27223-2015 titled *Bikram Singh Vs. State of Punjab & others*.

The petitioners challenge (in case of retirees) the order dated 05.11.2015 (Annexure P14) passed by respondent No.2, the Chief Engineer, Ranjit Sagar Dam and Shahpurkandi Dam Project, whereby the benefit of special increments, as per the judgment of the Apex Court in SLP-13027-2011 (CA-6540-2014) titled *State of Punjab Vs. Tarlok Chand & others*, decided on 16.07.2014, was not granted. Resultantly, a writ of mandamus is prayed for restoring the special increments which were granted prior to 13.03.1996 by the competent authority, as per the valid decision and to calculate the pension and other retiral dues along with other consequential benefits, as per the said judgment.

It is not disputed that in pursuance of the said judgment, the petitioners had filed a representation to the said respondent (Annexure P11). Thereafter, they had also approached this Court in CWP-20532-2015, which was disposed of on

28.09.2015, directing the respondents to consider the case of the petitioners and in case the claim is found legal and justified, the monetary benefits be handed over to them, 8 weeks thereafter.

The reasoning given by respondent No.2, in the impugned order, is that the petitioners were neither the respondents nor the members of the Thein Dam Workers Union (Registered) in SLP-13027-2011 (CA-6540-2014) and therefore, the order was not applicable to them. Reliance was placed upon instructions dated 11.09.2015 of the Department of Finance that the benefits of special increments were only to be given to those who are party to the litigation. Vide letter dated 16.09.2015 (Annexure P15), the said respondent also, further issued instructions that full compliance of the Government instructions dated 11.09.2015 be ensured. It is, in such circumstances, that the present bunch of cases has been filed by the petitioners.

It is further not disputed that some of the petitioners are serving whereas others are retirees in CWP-27223-2015 titled *Bikram Singh Vs. State of Punjab & others*, challenge has also been raised to the order of recovery to the tune of Rs.85,550/-, on account of the payment of special increments, passed by the Executive Engineer of the said establishment on 17.10.2013 (Annexure P7).

In the written statement filed, the respondents, now,

have, in principle, now, have taken a U-turn/summersault and decided to implement the order dated 16.07.2014. It is, thus, been pleaded that the case was referred to the Government of Punjab, Department of Irrigation, for approaching the Department of Finance for seeking approval to the similarly situated employees of the Ranjit Sagar Dam Project and Shahpurkandi Dam Project. On 04.03.2016, the matter was deliberated under the Chairmanship of the Chief Secretary and as per the decision of the Committee, the Department of Finance has conveyed its concurrence for implementing the order passed by the Apex Court, in respect of the petitioners/remaining employees, which has been further conveyed by Government of Punjab, Department of Irrigation vide letter dated 08.04.2016, in respect of the benefit of special increments, for the work charge period. It has, thus, been averred that the speaking order dated 16.07.2014 has been withdrawn by the competent authority on 20.04.2016. The pay of all petitioners have been restored by granting special increments, as per their admissibility. The relevant part of the affidavit of Shri Paras Ram, Executive Engineer, Store Division, Ranjit Sagar Dam Project, Shahpurkandi, reads as under:

“4. That subsequently various unions represented the department to implement the order dated 16-7-2014 passed by the Apex Court to the similarly situated employees of Ranjit Sagar Dam Project and Shahpurkandi Dam Project, who have been granted the benefit of special

increments during their workcharge period. Accordingly, the case was referred to the Punjab Govt. Department of Irrigation for approaching the Department of Finance for seeking approval for the implementation of the order dated 16-7-2014 passed by the Apex Court to the similarly situated employees of Ranjit Sagar Dam Project and Shahpurkandi Dam Project.

5. That the issue was deliberated in the meeting held on 04-03-2016 under the Chairmanship of Chief Secretary, Punjab and as per decision of the Committee, Department of Finance conveyed their concurrence for implementing the order dated 16-7-2014 passed by the Hon'ble Supreme Court of India in respect of non petitioners/remaining employees who have been granted the benefit of special increments during their workcharged period which was further been conveyed by Govt. of Punjab, Department of Irrigation vide its Memo No.8/2/2009-41P-3/731014/1 dated 08-04-2016.

6. That on the receipt of approval from the Department of Finance which was further conveyed by the Department of Irrigation, Govt. of Punjab, the speaking orders dated 05-11-2015 were withdrawn by the competent authority vide order No. 8504-07/LC-4041 dated 20-4-2016.

7. That accordingly the pay of all the petitioners has been restored by granting special increments as per their admissibility (Annexure R-1) in terms of the order dated 16-7-2014 passed by the Hon'ble Supreme Court of India in SLP No. 13027 of 2011 titled State of Punjab and others vs. Tarlok Chand and others.

In view of the above, the present writ petition may please be dismissed being rendered infructuous, as the order dated 16-7-2014 passed by the Hon'ble Apex Court has been implemented its true spirit."

Similarly, in CWP-27223-2015, the said deponent has averred that the amount of Rs.85,550/- which has been recovered

has been released to the petitioner vide the order dated 08.03.2016 and submitted to the Government Treasury, Department of Finance vide Bill No.103 dated 25.04.2016, for making on-line payment. The pay of the petitioners has also been revised by granting 4 special increments. Accordingly, the averments have been made that the revised pension case of the petitioner will be sent to the Accountant General, being the competent authority and the revised admissible retiral dues will be released to the petitioner. Relevant portion of the affidavit reads as under:

“4. That the recovered amount of Rs. 85,550/- on account of special increments has also been released vide office order No. 1250-85 dated 08-3-2016 and the same has been submitted to the Govt. Treasury, Department of Finance vide Bill No.103 dated 25-04-2016, for making online payment to the petitioner.

5. That in terms of order dated 16-7-2014 passed by the Hon'ble Supreme Court of India in SLP No. 13027 of 2011 titled State of Punjab and others Vs. Tarlok Chand and others (Annexure P-9) the pay of the petitioner has been refixed by granted 04 No. special increments.

6. That after restoring the pay of the petitioner by granting special increments, the revised pension case of the petitioner has been sent to the Accountant General (A&E), Punjab, Chandigarh i.e. Respondent No.5 being the competent authority vide letter No. 2571-72/PF dated 22-04-2016 and accordingly on the receipt of the same, the revised admissible retiral dues will be released to the petitioner.

In view of the above, the present civil writ petition may please be dispose of having rendered infructuous.”

It is not necessary to reiterate that it has been time and again held that the State should give benefit where the issue has been decided in principle and not force the employees to come to this Court for the same relief. A Division Bench of this Court in **Satbir Singh Vs. State of Haryana 2002 (2) SCT 354** has also held so. It is not disputed that even instructions were also issued by the State, in view of the same.

Recently, the Apex Court in **State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others 2015 (1) SCC 347** also laid down the principles that all similarly situated persons should be treated equally by the State and they should not be asked to approach the Court, especially once the judgment was in rem. Relevant portion reads as under:

“23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized

exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see [K.C. Sharma & Ors. v. Union of India](#) (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

In such circumstances, the present writ petitions are disposed of, in view of the stand taken by the State, on account of the withdrawal of the orders that the benefits of the judgment of the Apex Court in [Tarlok Chand](#) (supra) will be given to all similarly situated persons. In the case of serving employees, the pay will be

fixed accordingly, as per the entitlement of the increments. Similarly, in the case of the persons who have retired, the pension/retiral dues will be granted/refixed, as per the entitlement and where there has been recovery, the amount so recovered will be refunded to the said employees. Needful be done within a period of 3 months from the receipt of the certified copy of this order. Needless to say that in view of the directions issued, where recovery had been made, the petitioners shall be entitled for the interest element @ 6% per annum from the date of deduction till it is paid.

APRIL 28, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE