

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

Date of decision: 02.03.2016

CWP No.4145 of 2016

R.D.Kansal

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjay Tangri, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner is a retired person. He superannuated in the year 1999. He claims that his pension is lower than his juniors while they were together in service. No reason has been conveyed to the petitioner on the anomaly despite request for supply. The petitioner suffers from no disability of penalty imposed on him which may justify reduced pay. The claim is pension based and therefore the cause of action is recurring and loss is caused everyday and simply because the petitioner retired in the year 1999 and has approached court now would not be a sufficient ground to defeat his rights on principles of delay, laches or bar of limitation because the monetary relief can always be shaped to balance out the interests of both i.e. the petitioner and the State limiting the actual monetary benefits within three years from the date of legal notice, the remaining period anterior notionally.

The petitioner has served a legal notice dated 24th November, 2015 (Annex P-7), which has received no response so far. In the circumstances Mr. Tangri would be satisfied on instructions received from his client that this

Court may, without going into the merits of this case, issue a direction to the respondents to decide the legal notice within a reasonable time. The request is as fair as it is justified. The petitioner has a right to a decision by the competent authority declaring his right to enhanced pension by removal of the anomaly in pay, in the first instance.

As a result, a direction is issued to the competent authority amongst the respondents to decide the legal notice (Annex P-7) within six weeks from the date of receipt of certified copy of this order. In case the claim is found genuine, it would not be necessary either to hear the petitioner or to pass a speaking order and the relief can flow from the Government directly. However, if an order adverse to the interest of the petitioner is to be passed, then he would be heard, in case he makes a request for personal hearing before the final order is passed, it shall be granted. Then the order will be a speaking one containing reasons for arriving at the conclusion. In case, personal hearing is required, the period fixed will stand extended by two further weeks.

With these observations and directions, the present petition stands disposed of.

02.03.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE