

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2624-1999 (O&M)
Date of decision: 20.03.2017

Ram Dev Sharma

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.R.S.Bajaj, Advocate for the petitioner
Mr.R.S.Pathania, DAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The short controversy involved in this case is that the petitioner who was working as a Company Commander, opted for revised pay scale of the Punjab Government w.e.f. 1.10.1986. His junior Subhash Chander opted for the revised scale w.e.f. 01.10.1987. The result was that the pay of his junior became higher than the petitioner. As per the government instructions dated 21.6.1990, he could send the application for bringing / fixing his salary at par with junior upto 31.10.1990 but he sent the application on 13.2.1992, which was time barred. Therefore, his claim was declined. Petitioner, however, claimed that he had made a representation in 1990, which is not traceable.

After hearing learned counsel for both the parties, I am of the view that the pay of the senior cannot be less than his junior. Even if, he was required to make a representation within given time and he made the such representation with a delay, his pay can be notionally stepped up equal to his

junior from the date his junior was given higher salary. However, he can be denied for the benefits of actual salary for the period he applied late. In this case, the petitioner is stated to have applied only on 13.2.1992. Therefore, merely on the ground that he applied with a delay, he can not be denied the benefit of salary equal to his junior Subash Chander.

It being so, the present petition is allowed. The respondents are directed to fix the pay of the petitioner notionally equal to his junior Subash Chander from the date his junior Subash Chander was getting higher salary. However, the petitioner will not be entitled to benefit of actual salary till 13.2.1992 i.e. when he made the representation to step up his pay equal to his junior. Accordingly, the pay of the petitioner shall be revised and he will be given actual benefit w.e.f. 13.2.1992. Since the petitioner had retired from service on 30.6.1994, his pension shall also be re-fixed and arrears be paid to him accordingly. However, he will not be entitled to any interest on the said arrears till the date of filing of the present petition i.e. 24.2.1999. From the date of filing of the present petition i.e. 24.2.1999 till the payment, the petitioner shall be entitled to interest @ 9% per annum on the arrears.

20.03.2017*gk***(Kuldip Singh)****Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No