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

**-.-**

**C.W.P No. 14172 of 2007**
**Date of decision : January 17, 2017**

Darshna Kumari ... Petitioner.

versus

State of Punjab & Ors. ... Respondents

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Charanjit Singh, Advocate, for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

**KULDIP SINGH, J**

A short controversy in the present case is regarding re-fixation of pay of the petitioner. The short facts noticed for the purpose of disposal are that petitioner joined the service on 27.10.1976 as direct recruit on regular basis. One Smt. Jaswinder Pal, joined the services as Science Mistress on adhoc basis on 22.09.1975. Her services were regularised on 01.04.1977. The petitioner stand at seniority No.4462, whereas said Smt. Jaswinder Pal stand at Seniority No.5834. On the representation made by the petitioner her pay was stepped up equal to her Junior Smt. Jaswinder Pal, vide Annexure P/13, dated 13.02.2004. The said order was withdrawn vide impugned order dated 22.08.2007Annexure P/7 stating that the particulars of both the employees do not tally. Consequently, some of the retiral benefits of the petitioner were withheld, which have now been released except the payment on account of order Annexure P/7.

I have heard learned counsel for the parties.

Admittedly, the petitioner was senior to Smt. Jaswinder Pal.

The ad hoc service is not counted towards seniority. Consequently, the service of Smt. Jaswinder Pal for the purpose of seniority was counted from 01.04.1977.

Learned State counsel has argued that Smt. Jaswinder Pal was getting higher salary on account of her ad hoc service. However, the Rule laid down that the salary of a senior cannot be less than that of her junior. Since as per the seniority list and as per date of regularisation Smt. Jaswinder Pal Kaur was junior, therefore, the salary of the petitioner was rightly upgraded equal to a her junior vide order date 09.03.2007, Annexure P/3. Therefore, merely by saying that particulars of two cases do not tally, is no ground to withdraw the said benefit. It being so, the impugned order dated 22.08.2007 Annexure P/7 is hereby quashed. Since some of the retiral benefits were released with delay. Therefore, the respondents are liable to pay interest on the delayed payment.

The petitioner retired from service on 30.06.2007. As per affidavit filed by Jagseer Singh, DEO (S.E), Ferozepur, dated 02.06.2016, Revised Leave Encashment amounting to Rs.1,17,343/- has been paid to the petitioner on 08.11.2007, DCRG was paid on revision of pay amounting to Rs.3,50,000/- had been paid to the petitioner on 24.12.2007. G.P.F amounting to Rs.7,26,850 had been paid to the petitioner on 10.07.2007. GIS amounting to Rs.20,124/- had been paid to the petitioner on 15.10.2007. Revised DCRG amounting to Rs.65609/- had been paid to the petitioner on 13.04.2011. Revised Leave Encashment amounting to Rs.11,650/- was paid to the petitioner on 20.10.2011. It shows that all the retiral benefits were paid with delay. The petitioner retired on 30.06.2007 and these benefits were required to be released till 30.09.2007. Therefore, for the benefits which are released after the said date the petitioner shall be entitled to the interest @9% per annum. Consequent upon the quashing of order dated 22.08.2007 Annexure P/7, the salary and pension of the petitioner shall be refixed in terms for pay fixed vide order dated 13.02.2004 Annexure P/13, and the arrears of pay and pension shall also be released with interest @9% per annum from the date, it become due till payment except on revised DCRG and revised leave encashment. Necessary arrears be released within two months from the date of receipt of certified copy of this order.

**(KULDIP SINGH)**
**JUDGE**

**January 17, 2017**
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Whether speaking/reasoned – Yes
Whether reportable – No