

Shakuntla

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE P. B. BAJANTHRI

Present: Mr.Ravinder Malik, Advocate, for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

P. B. BAJANTHRI J. (ORAL)

This writ petition has been filed by the legal heirs of deceased late Sh. Krishan Lal (Blacksmith), who died on 14.05.2007. It is contended that as per the State Government Policy, deceased was entitled to a Technical pay scale but the same was not extended to him, which was the subject matter of litigation in CWP No.1791 of 2002 titled as “Raj Karan Vs. State of Haryana and others”. In the aforesaid writ petition, this court has directed the concerned respondent to extend the benefit of technical pay scale while considering the grievance of the deceased employee, which was represented on behalf of the legal representatives.

While considering the grievance of the deceased employee, the official-respondents have extended the benefit of technical pay scale on 04.02.2013. However, arrears of pay were not extended. Consequently, petitioner was compelled to file COCP. Identical matters were pending consideration in COCP No. 1612 of 2014. The petitioner’s COCP was to be linked and heard along with COCP No. 1612 of 2014. However, the same was not heard along with COCP No. 1612 of 2014. In respect of arrears of pay that which was the subject matter in COCP No.1612 of 2014, the

official-respondents have granted during pendency of the COCP. Accordingly, COCP filed by the petitioner was pending consideration as it was not linked with COCP No.1612 of 2014.

During pendency of the COCP filed by the petitioner, the respondents proceeded to pass an order on 27.10.2014, while withdrawing the benefit of technical scale extended w.e.f. 01.05.1990 to 04.02.2013 with reference to Government Notification dated 10.12.2013 read with the decision of this Hon'ble Court in LPA No.1040 of 2012 (Anneuxre P-13) which is under challenge.

Learned counsel for the respondents fairly admitted that before passing the order dated 27.10.2014 by which order dated 04.02.2013 has been withdrawn is without issuing notice to the petitioner.

Learned counsel for the petitioner submitted that the official-respondents have discriminated in extending the benefit of the technical pay scale and also arrears of pay, as ordered by the official-respondents that arrears of pay would be granted 38 months prior to the filing of the writ petition.

Grievance of the petitioner is only to the extent of payment of arrears that is 38 months prior to filing of writ petition by the petitioner. The respondents have already extended identical benefit to others who were similarly placed, therefore, there is clear case of discrimination in not extending benefit of arrears of pay to the petitioner herein. Therefore, Annexure P-18 dated 27.10.2014 is liable to be set aside on the ground of not hearing the petitioner, as also on the ground of discrimination in not extending the benefit of arrears of pay to the similarly situated persons, which was the subject matter of COCP No. 1612 of 2014.

Since, the petitioner is the legal heir, therefore, the concerned respondents are, hereby, directed to extend the benefit of arrears of pay with reference to the principle that arrears would be paid prior to 38 months from the date of filing of the original writ petition by the petitioners. Arrears shall be calculated and disbursed to the petitioner within a period of three months from today. If arrears are not paid within the stipulated period in that event petitioner is entitled to 6% interest on arrears from the date of filing original CWP.

Disposed of.

(P. B. BAJANTHRI)
JUDGE

12.05.2017
hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No