

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

215

CWP No.19637 of 2014 (O&M)

Date of Decision: August 18, 2017

Gurmail Kaur

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Mr. Sukhbir Singh, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Pleaded case of the petitioner is that she joined the Punjab Education Department as a Punjabi Teacher on 01.04.1977. Petitioner stands retired w.e.f. 30.08.2011 having attained the age of superannuation having served on the same post for more than 34 years.

State Government issued notification dated 09.09.1988, whereby, Punjab Civil Services (Revised Pay) Rules 1988, were notified granting pay revision to the employees w.e.f. 01.01.1986 or from the date employees opted for grant of such pay revision. Petitioner opted for the pay revision w.e.f. 01.01.1986 and as per option exercised, her pay was fixed.

On 25.09.1998, State Government issued instructions for

grant of benefit under the Assured Career Progression Scheme on completion of 8/16/24/32 years' service. The objective of such scheme was to alleviate stagnation qua such employees who had not been promoted in spite of regular satisfactory service.

Subsequently State Government issued instructions dated 03.11.2006, which envisaged a revised ACP Scheme and proficiency step ups were to be granted on completion of 4/9/14 years' service. However such amended ACP Scheme dated 03.11.2006, was made optional. Employees were given liberty to opt for the amended scheme under the instructions dated 03.11.2006 or to remain under the previous ACP Scheme dated 25.09.1998.

At that stage, petitioner opted for the revised ACP Scheme under instructions dated 03.11.2006.

There is no dispute as regards the fact that the petitioner had been permitted to change her option on 07.02.2011 as regards grant of revised pay scale from 01.01.1986 to 01.01.1991 and as such, the pay of the petitioner was refixed in the revised pay scale w.e.f. 01.01.1991.

It is at such stage i.e. on 07.02.2011 the petitioner realized that on account of the such changed circumstances she had wrongly opted for the ACP Scheme dated 03.11.2006 on completion of 4/9/14 years' service whereas she was to be benefitted financially had she continued to get benefit under the previous ACP Scheme dated 25.09.1998 on completion of 8/16/24/32 years' service.

Against such backdrop, petitioner is stated to have made a

representation by submitting to grant her 32 years ACP in the light of instructions dated 25.09.1998. Apparently, the representation has been returned with an objection that since she had opted for ACP on completion of 4/9/14 years' service under the 03.11.2006 instructions, she cannot now claim benefit of ACP upon completion of 32 years under the previous ACP Scheme dated 25.09.1998.

Learned counsel representing the petitioner has placed reliance upon a Division Bench Judgment of this Court in *Mangat Ram Nain and others vs. State of Haryana and others* at Annexure P-8 to contend that on account of changed circumstances and which entail a pay fixation to the detriment of the employee a change of option is permissible. As per counsel to the same effect would be the ratio of the judgment dated 25.02.2016, passed by a Co-ordinate Bench of this Court in **CWP No.21889 of 2010 (Darshan Singh vs. State of Punjab and others)**.

In the light of the facts noticed hereinabove and against the backdrop of the submissions advanced by counsel, I deem it appropriate to dispose of the writ petition with a direction to respondent No.2 to consider the claim and prayer of the petitioner by treating the instant writ petition itself as a comprehensive representation. Let a final decision as regards claim of the petitioner, be taken within a period of three months from today. Suffice it to observe that while taking a final decision on the claim of the petitioner, the objection contained in letter dated 28.11.2013 at Annexure P-7 would not be considered as an impediment.

It is further clarified that in the eventuality of the claim of the petitioner finding favour with respondent No.2 and the petitioner being allowed to change her option, the benefits accruing thereupon would be treated to be notional.

The petitioner would then be benefitted only with revised pensionary benefits.

Further clarified that while issuing such directions and disposing of the writ petition, this Court has not expressed any opinion on the merits of the claim/prayer made by the petitioner.

Writ petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

18.08.2017
anju rani

Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**