

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 205

Civil Writ Petition No.7848 of 2011 (O & M)
Date of Decision: *December 04, 2017*

Natha Ram

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

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

. . .

PRESENT: - Mr. J.S. Lalli, Advocate, for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab.

Mr. V.K. Kaushal, Advocate, for respondent Nos.2 to 4.

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Jaspal Singh, J

Through the instant petition, under Article 226/227 of the Constitution of India, petitioner seeks issuance of a writ in the nature of Mandamus, directing the respondents to re-fix his last pay drawn from ₹ 18,230/- to ₹ 21,830/-, as his pay fell in fitment table 13 of revised pay rules, 2009, at the time of his retirement on June 30, 2006. Further, prayer has been made for issuance of a writ in the nature of certiorari, quashing office order dated May 24, 2010 (Annexure P-2) passed by respondent No.3 – Chief Engineer (Central), Punjab Water Supply & Sanitation Department, Patiala, whereby his pay has been erroneously fixed in the pay scale of

₹ 5,000 – 8,100/- with basic pay of ₹ 7,880/- on January 01, 2006 and put him in the revised pay scale of ₹ 10,300-34,800 + 3,200 Grade Pay in comparison to his official Kulwant Kaur whereas it should have been compared with Jarnail Singh, his immediate junior who was drawing more pay than him.

Learned counsel for the petitioner has contended that Petitioner joined Public Health Department, Muktsar as Clerk on September 12, 1974. He was promoted in the year 1988 to the post of Senior Assistant and was permanently allocated to Water Supply & Sewerage Board. His seniority continued to be governed by his parent department. He was placed in the seniority list at Sr. No.643. Jarnail Singh, having joined on December 20, 1974, was junior to him and placed at Sr. No.644. Kulwant Kaur, who joined the department on February 10, 1976, was placed at Sr. No.645. Petitioner retired from service on June 30, 2006 from the post of Senior Assistant. Pensionary benefits were granted to the petitioner on the basis of last pay drawn i.e. ₹ 9,475 as is clear Annexure P-1.

Learned counsel further contended that on May 27, 2009, Punjab Civil Services (Revised Pay) Rules, 2009 were notified and came to be in forced w.e.f. January 01, 2006. Petitioner, who was drawing basic pay of ₹ 9,475/-, on January 01, 2006 should have been placed in Fitment Table 13 in the old pay scale of ₹ 6,400 – 10,640/- and his revised pay scale should have been ₹ 10,300 – 34,800 + 4200 GP, making his revised basic pay as on January 01, 2006 to be ₹ 21,830/-. However, vide office order dated May 24, 2010 (Annexure P-2), petitioner's pay was fixed as ₹ 18,230/- by putting him in the fitment table 10 of revised pay structure of ₹ 10,300 – 34,800 +

3,200 GP, in comparison to his junior Kulwant Kaur, in the old pay scale of ₹ 5,000 – 81,00/- with last basic pay drawn of ₹ 7,880/-.

Petitioner submitted a representation dated July 14, 2010 (Annexure P-3) for re-fixing his pension in accordance with basic pay drawn at the time of retirement in the pay scale of ₹ 6,400 – 10,640/-, in comparison to his junior Jarnail Singh, who was drawing more pay than him, whereas Kulwant Kaur was much junior to petitioner. Case of the petitioner was sent to Accountant General, Punjab. Office of Accountant General, Punjab, vide letter dated August 07, 2010 (Annexure P-4) returned his case to respondent No.3 to re-examine it with the remarks: “..... revision of pension case of Sh. ZNatha Ram, Retd. Sr. Assistant is returned herewith with remarks that the pay of the official has been verified in existing pay scale 5000 – 8100. But as per entry recorded in the Service Book Part-II Page No.33, his pay revised from 1800 – 3200 to 5800 – 9200 w.e.f. 1.1.96 and further entry recorded at page 35 that his pay revised in 6400 – 10640 under ACP Scheme on completion of 8 years services as Sr. Assistant w.e.f. 10.8.96. The case may be re-examined and pay of the official may be revised in the correct existing scale”.

Learned counsel further submitted that petitioner was orally informed that Jarnail Singh had qualified the examination of Sr. Assistant Grade, while petitioner did not, therefore, his pay cannot be compared with Jarnail Singh. However, vide Punjab Government Circular letter No.6/1-98-1PPI/10972 dated August 27, 1998, Sr. Assistant Grade Examination Rules, 1984 were abolished and it has no effect on the promotion to the post of Sr. Assistant in the State of Punjab. This fact was brought to the notice of respondent No.3 vide representation dated September 07, 2010 (Annexure P-

5), whereupon, office of Accountant General, Punjab, vide letter dated February 09, 2011 (Annexure P-6) revised the pension of petitioner from ₹ 7,107/- to ₹ 9,115/- w.e.f. July 01, 2006 on the basis of revised last pay of ₹ 18,230/- and calculated his family pension, gratuity and arrears, accordingly.

Learned counsel for the petitioner has contended that petitioner's pay should have been revised as ₹ 21,830/- in the pay scale of ₹ 10,300 – 34,800 + 4,200 on the basis of old pay scale of ₹ 6,400 – 10,640; and his pay should have been fixed at par with his junior Jarnail Singh instead of Kulwant Kaur, moreso, because Sr. Assistant Grade Examination Rules, 1984 had been abolished vide Circular dated August 17, 1998.

Admittedly, petitioner is senior to Jarnail Singh and Kulwant Kaur is much junior to him. He has been denied the revision of pay scale of ₹ 10,300 – 34,800 + 4200 GP on the sole ground that he has not cleared the Examination for the post of Sr. Assistant, whereas his junior Jarnail Singh had cleared the same, and therefore, he cannot seek parity with Jarnail Singh.

It is clear from the additional affidavit dated November 13, 2017 of Kuldip Singh Saini, Executive Engineer, Water Supply & Sanitation, Division No.1, Jalandhar, filed on behalf of the respondents that qualifying exam for promotion to the post of Senior Assistant was abolished vide Department of Personnel & Administrative Reforms (Personnel Policies -1 Branch) Letter dated March 09, 1998 (Annexure P-1). Once the qualifying exam for promotion to the post of Senior Assistant has been abolished in the year 1998, then the action of the respondent in not placing the petitioner at par with his junior Jarnail Singh, on the ground of his non-

clearing the aforesaid examination that too, in the year 2006, is totally wrong, illegal and detrimental to the interests of a retired employee.

In the light of what has been discussed above, office order dated May 24, 2010 (Annexure P-2) re-fixing the pay of petitioner in the revised pay scale of ₹ 10,300 – 34,800 + 3200 GP (Basic Pay ₹ 18,230/-) is not sustainable in the eyes of law and is set aside. Instant writ petition is allowed and the respondents are directed to re-fix the pay of petitioner in the revised pay scale pursuant to Punjab Civil Services (Revised Pay) Rules, 2009 w.e.f. January 01, 2006 at par with his junior Jarnail Singh and grant all consequential benefits arising therefrom, within a period of three months from the date of receipt of a certified copy of this judgment. On failure to pay the amount in question within the stipulated period of three months, the respondents shall be liable to pay interest @ 9% per annum from the date of institution of the instant petition till actual payment.

No order as to costs.

December 04, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No