

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

**CWP No. 17072 of 2017
DECIDED ON: SEPTEMBER 11, 2017**

SATBIR SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sunil Kumar Bhardwaj, Advocate
 for the petitioners.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought the issuance of writ in the nature of certiorari for quashing the impugned order dated December 21, 2016 (P-6), passed by respondent No.3 whereby, the claim of the petitioner for granting him the arrears of revised pay scale w.e.f. February 01, 1981 along-with interest, was rejected, as well as order dated March 18, 2013 (P-7) passed by respondent No.3 to the extent of restricting the arrears for 38 months as the similar benefit has already been granted to other similarly situated employees vide judgment dated December 07, 2011 (P-2) and judgment and decree dated October 28, 2014 (Annexure P-4) with further direction to respondents to grant the arrears of

revised pay scale w.e.f. February 01, 1981 in view of judgment Annexure P-2 as well as judgment and decree (Annexure P-4), whereby, the similarly situated employees, who were serving with respondent No.3 have already been granted the interest @9% per annum.

2. Learned counsel for the petitioner has contended that petitioner stood retired from the office of respondent No.3 after attaining the age of superannuation. He further submits that in view of judgment passed in CWP No. 8055 of 1998, some of the other similarly situated employees who were having technical qualification were granted the pay scale of ₹480-760/- w.e.f. February 01, 1981 along-with the arrears. Since the petitioner is also serving with respondent No.3 on the same post, as such he is also entitled to the similar benefit of revised pay scale. He further submits that since the petitioner has been granted the revised pay scale of 480-760/- w.e.f February 01, 1981 and further scale of 1200-2400/- w.e.f. September 01, 1986 but the benefit of ACP scales has not been granted to him till date. According to length of service, petitioner is entitled for the grade pay of 3300/- in the pay band of 9300-34800/- It has further been submitted by learned counsel for the petitioner that petitioner has been granted the arrears only for 38 months, whereas, he is entitled to the benefit of arrears along-with interest since the date of revision of pay scale because similarly situated employee who were serving with respondent No.3 have granted the arrears along-with interest @9% per annum vide Annexures P-2 and P-4 respectively.

3. Undisputably, petitioner has been granted the revised pay scale w.e.f February 01, 1981 but his arrears have been restricted to 38 months prior to the

date of filing of writ petition. The grievance of the petitioner is that other similarly situated employees have been granted the benefit of arrears of total period but the petitioner has only been granted the arrears for a period of 38 months. The petitioner had earlier approached this Court by way of filing of CWP No. 11665 of 2016, which was disposed of with a direction to the respondent No.2 to decide the representation moved by the petitioner.

4. It is not disputed that the claim of the petitioner was considered but a condition was imposed that he will not be entitled to the arrears for the period of more than 38 months. The present petition has been filed on the ground that the petitioner is entitled for the arrears of the total period and the condition of 38 months has wrongly been imposed, whereas, no such condition has earlier been imposed in the case of other similarly situated employees. In this regard we can have the reference of Full Bench judgment passed by this Court in the case of Saroj Kumari vs. State of Punjab; 1998 (3) SCT 664 as well as the judgments of Hon'ble Apex Court rendered in the cases of M.R. Gupta vs. Union of India and others; 1996 (1) SCT 8; Union of India vs. Keshar Singh; 2007 (2) SCT 754, Asger Ibrahim Amin vs. Life Insurance Corporation of India; 2015 (4) SCT 695 and Union of India & others vs. Manpal; 2015 (4) SCT 63.

5. Beside the afore-said judgments, in the case of Union of India vs. Tarsem Singh, (2008) 8 SCC 648; the Hon'ble Apex Court has held as under;

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a

service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several other also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

6. Thus, in the light of afore-said observations, it can be said that normally a belated service related claim deemed be rejected on the ground of delay and laches or limitation. One of the exceptions to the said rule is, cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which relates to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then

the claim will not be entertained. Thus, in case of payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involves issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence thereof, consequential relief in respect of arrears can be restricted to a period of 38 months prior to the date of filing of the writ petition.

5. Adverting to the facts of the case in hand, petitioner has sought the relief to grant him arrears to total period without imposing the condition of 38 months. Thus, the grant of benefit sought by the petitioners through the instant petition is likely to affect the other persons also.

6. In view of above discussion, this Court does not find any merit in the instant petition, as such the same is dismissed.

7. No order as to costs.

SEPTEMBER 11, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*