

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

**CWP-17877-2017 (O&M)
Date of decision:02.11.2017**

Ram Kishan

... Petitioner

Vs.

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Ms. Jyoti Sareen, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J.(ORAL).

CM-15749-CWP-2017:

Application is allowed as prayed for.

The accompanying documents at Annexure P-6 (colly) are taken on record.

Application is disposed of.

Main case:

As per pleadings on record, petitioner was appointed as a Mason on muster roll basis under the Punjab PWD (B&R) Branch on 12.03.1983. In march, 1989, services of the petitioner were dispensed with. Industrial dispute having been raised, award dated 26.07.1991 was rendered by the Labour Court directing reinstatement with continuity in service as also full back wages. Services of the petitioner were regularized w.e.f. 01.01.1996.

Grievance raised in the instant petition is that certain other employees, namely, Suresh Kumar, Naresh Kumar and Raj Mal, who were appointed subsequently to the petitioner i.e. on 01.04.1989 and even though regularized on the same date i.e. 01.12.1994 are drawing a higher salary.

Claim, as such, set up in the petition is for issuance of directions to the respondents to fix the pay of the petitioner at par with his juniors w.e.f.

01.01.1996.

Confronted with the aspect of delay in having approached this Court, counsel would respond by submitting that the petitioner is still in service and as such, in matters of pay fixation it is a recurring cause of action as the petitioner is receiving lower emoluments each month. Reliance has been placed upon the judgment of the Apex Court in **M.R. Gupta Vs. Union of India & others, 1995 (4) RSJ 502.** It is further urged that in case the claim of the petitioner is upheld, the payment of actual arrears be restricted to a period of 38 months prior to the date of filing of the instant petition.

In view of the above and without ascertaining the correctness of the averments made in the petition, I deem it appropriate to dispose of the instant petition with a direction to respondent authorities/competent authority to examine the claim of the petitioner in the light of a legal notice dated 06.01.2017 (Annexure P-4) i.e. stated to have already been served. A final order be passed expeditiously and in any case, within a period of four months from the date of receipt of a certified copy of this order and be conveyed to the petitioner.

It is clarified that in the eventuality of the claim of the petitioner being upheld, it would be open for the respondent/authorities to grant the benefit of pay fixation to the petitioner on a notional basis and to release actual arrears limited to a period of 38 months prior to the date of filing of the instant petition.

Disposed of.

02.11.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

(i) Whether speaking/reasoned?	Yes
(ii) Whether Reportable?	No