

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.21442 of 2016(O&M)
Date of Decision: 09.08.2017

Balwant Singh

--Petitioner

Versus

State of Punjab and others

--Respondents

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

Present:- Mr. R.S. Rangpuri, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, Sr. D.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

Petitioner, who was serving as a Head Constable under the Punjab Police, retired on 30.4.2010 upon attaining the age of superannuation.

The instant writ petition has been filed in the year 2016 seeking a Writ of Mandamus for directing the official respondents to extend to the petitioner the benefit of judgement dated 3.4.2014 rendered in ***CWP No.7005 of 2001 (Joga Singh and others Vs. State of Punjab and others)*** (Annexure P-1) and consequentially to grant to him the A.C.P Scale of Rs.3120-6200 as on 1.1.1996 along with all consequential benefits and as has been granted to the petitioners in ***CWP No.7005 of 2001***.

There is no dispute that the present petitioner is identically situated and at par with the petitioners in ***Joga Singh's*** case (supra). In para 5 of the written statement filed on behalf of respondents no.1 to 3 it stands conceded that the instant petition is squarely covered by the judgement dated 3.4.2014, passed by this Court in ***CWP No.7005 of 2001 (Joga Singh and others Vs. State of Punjab and others)***.

However, there is an aspect of delay that needs to be dealt with.

The cause of action to raise the claim as per prayer made in the instant petition had arisen to the petitioner while in service and in fact as far as back in the year 2000. Petitioner superannuated in the year 2010. The instant petition has been filed in the year 2016.

The Hon'ble Supreme Court in ***Rup Diamonds and others Vs. Union of India and others, 1989 (2) S.C.C, 356*** had dealt with the issue of delay and had held that merely because certain employees have been vigilant about their rights and having agitated their claim have been successful, other employees who may be similarly situated, cannot be permitted to gain any impetus from such judgement and delay would still stand in their way for getting relief.

Confronted with the question of delay, counsel for the petitioner would submit that he is not seeking the actual arrears upon re-fixation consequent to the grant of A.C.P scale with effect from the date due but would confine his claim only as regards notional fixation and revised pensionary benefits based on such notional fixation. Counsel further submits that even as regards the revised pensionary benefits, he would confine his claim only as regards 38 months arrears to be taken from the date of filing of the instant petition.

In the light of such stand taken on behalf of the petitioner, the instant writ petition is disposed of in terms of judgement dated 3.4.2014 rendered by this Court in ***CWP No.7005 of 2001 (Joga Singh and others Vs. State of Punjab and others)***. It is, however, clarified that upon grant of the A.C.P Scale as directed in the judgement in ***Joga Singh's*** case (supra), only notional fixation shall be accorded in favour of the petitioner and based

thereupon the revised pensionary benefits would be calculated. Even the arrears of revised pensionary benefits would be limited to the period of 38 months prior to the filing of the instant writ petition.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

09.08.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No