

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24068 of 2014 (O&M)

Date of decision : 10.01.2017

Shri B.S. Nat and others

..... Petitioners

Versus

State of Haryana and ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Manohar Lal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

KULDIP SINGH J. (ORAL)

The petitioners were earlier working in Irrigation Department and PWD (B&R) and Architecture Department of State of Haryana and retired from service. Petitioners No.1 and 3 have made the claim through legal heirs. The claim of the petitioners is for revised pension at the rate of 50% of the minimum wages w.e.f. 01.01.2006 in the pay band in accordance with the judgment rendered by this Hon'ble Court in **CWP No. 19641 of 2009** titled as ***R.K. Aggarwal and others Vs. State of Haryana and others***, along with connected cases decided on 21.12.2012, and consequently, fixing the pension of petitioner Nos.2, 4, 5 and 6 and the family pension of legal heir of petitioner Nos.1 and 3.

Heard.

It comes out that the judgment of R.K. Aggarwal's case (supra) was unsuccessfully challenged before the Apex Court and now it has become final. It also comes out that the State of Haryana in pursuance to the judgment passed in R.K.Aggarwal's case (supra) has issued instructions dated 06.02.2015 (Annexure R-1), wherein the pay and pension has been ordered to

be stepped up to 50% of the sum of minimum of pay in the pay band and grade pay corresponding to the revised pay scale from which the petitioners had retired, as arrived in reference to the fitment tables annexed to the Finance Department's Circular dated 07.01.2009 / 27.01.2009. The pension has been revised w.e.f. 01.01.2006. However, the said instructions dated 06.02.2015 at Annexure R-1 have been made effective from the date of issuance i.e. on 06.02.2015. After considering the judgment of R.K.Aggarwal's case (Supra), and the instructions at Annexure R-1, this court is of view that in the R.K.Aggarwal's case (supra) this Court has observed as under:-

“ It is for the aforesaid reasons, we remark that there is no need to go into the legal nuances. Simple solution is to give effect to the resolution dated 29.08.2008 whereby recommendations of the 6th Central Pay Commission were accepted with certain modifications. We find force in the submission of learned counsel for the petitioners that subsequent OMs dated 03.10.2008 and 14.10.2008 were not in consonance with that resolution. Once we find that this resolution ensures that “the fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired”, this would clearly mean that the pay of the retiree i.e. who retired before 01.01.2006 is to be brought corresponding to the revised pay scale as per 6th Central Pay Commission and then it has to be ensured that pension fixed is such that it is not lower than 50% of the minimum of the pay in the band and the grade pay thereon. As a result, all these petitions succeed and mandamus is issued to the respondents to refix the pension of the petitioners accordingly within a period of two months and pay the arrears of pension within two months. In case, the arrears are not paid within a period of two months, it will also carry interest @ 9% w.e.f. 01.03.2013. There shall, however, be no order as to cost.”

Therefore, the pension of the petitioners, who retired prior to 01.01.2006, was to be revised in terms of the said judgment. Though the pension has been revised but it has been revised prospectively, which is contrary to the judgment of R.K.Aggarwal's case (Supra).

Learned State counsel has argued that the petitioner approached this Court only in the year 2014.

I am of the view that if the petitioners have approached this court late, they can be denied the interest of 8 years till the date of approaching this Court. However, their pensions are to be released in terms of R.K.Aggarwal's case (supra) and they have to be paid arrears.

As such, the petition is allowed.

The respondents are ordered to revise the pension of the petitioners No.2, 4, 5 and 6 and family pension of the legal heirs of petitioners No.1 and 3 in terms of the judgment rendered in R.K.Aggarwal's case (supra). As per the directions of judgment in R.K.Aggarwal's (supra) reproduced hereinabove, within a period of three months from the date of receipt of a certified copy of the order. The petitioners shall be entitled to arrears w.e.f. 01.01.2006. Since, in R.K. Aggarwal's case (supra), the petitioners approach this Court in the year 2009 and in the present case petitioner approached this Court in the year 2014, therefore the petitioners shall not be entitled to any interest on the arrears till 14.11.2014 when the present writ petition was filed. However, the respondents shall pay interest @ of 9% per annum from the said date from 15.11.2014 till the date of payment.

(KULDIP SINGH)
JUDGE

10th January, 2017
hemlata

Whether speaking/reasoned Yes

Whether reportable Yes