

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

**CWP No.24197 of 2017 (O&M)**

**Date of decision:02.11.2017**

Rajiv Kumar Gupta & others

... Petitioners

Vs.

State of Punjab & others

... Respondents

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

Present: Mr. Amrik Singh, Advocate for the petitioners.

...

**TEJINDER SINGH DHINDSA, J. (ORAL).**

**CM-15490-CWP-2017:**

Prayer in the application is for modification/recalling of the order dated 26.10.2017 passed by this Court while disposing of CWP-24197-2017.

It may be noticed at the outset that CWP-24197-2017 had been disposed of at the stage of preliminary hearing itself on 26.10.2017 and without putting the State to notice.

In the light of the averments made in the application and the submissions advanced by counsel, prayer is allowed.

Order dated 26.10.2017 passed by this Court is recalled.

The writ petition, which had been finally disposed of on 26.10.2017 is restored to its original number and taken up on Board today itself.

Application is disposed of.

**Main case:**

Petitioners, who are 32 in number are either serving or have

retired from the Department of PWD (B&R) Branch, State of Punjab. They have held or are still holding the post of Junior Engineer/Sub Divisional Officers/Assistant Engineers. The particulars of the petitioners including their date of joining as Junior Engineer, date of promotion as Sub Divisional Officers, date of retirement (extension) have been furnished in a tabulation appended and placed on record at Annexure P-1.

Claim raised in the instant petition is for grant of financial benefits contemplated under the Assured Career Progression Scheme (ACP) formulated by the State Government vide Circular dated 03.11.2006 (Annexure P-4).

Counsel submits that such claim was declined vide memo dated 29.04.2010 (Annexure P-5) issued by the Punjab Government, Personnel Department. The Memo dated 29.04.2010 (Annexure P-5) came to be challenged by way of filing **CWP No.16446 of 2010 (Jaswinder Singh Bedi & others Vs. State of Punjab & others)** by other employees, who were similarly situated and such writ petition was allowed by the learned Single Judge on 29.05.2013 and the petitioners therein were held entitled to the benefit of Policy Circular dated 03.11.2006 (Annexure P-4) governing the ACP Scheme. The judgment dated 20.05.2013 rendered in CWP No.16446 of 2010 stands affirmed by the Letters Patent Bench vide decision dated 19.12.2014 in LPA No.244 of 2014 (Annexure P-7).

Petitioners essentially claim parity in treatment.

Counsel representing the petitioners having been confronted with a question of delay for having approached this Court by filing the instant petition in the year 2017, would respond that in case, the claim of the petitioners is accepted, the petitioners be granted relief by limiting the

financial benefits to a period of 38 months prior to the date of filing of the instant writ petition.

In view of the above and without going into the merits of the case, I deem it appropriate to dispose of the the instant writ petition in terms of issuing directions to respondent No.1 to consider the claim of the petitioners by taking a final decision on the legal notice dated 02.09.2017 (Annexure P-10) that is stated to have already been served, within a period of four months from the date of receipt of a certified copy of this order.

It is clarified that in case the petitioners are found entitled to the benefits of ACP Policy Circular dated 03.11.2006 (Annexure P-4), it would be open for the respondent-authorities/competent authority to limit and restrict the actual arrears to a period of 38 months, in case of petitioners, who are still serving. In the case of such petitioners, who have already retired, the claim if found entitled to, would be granted on a notional basis and such retirees would then be entitled to revised pensionary/retiral benefits based upon such notional fixation and even in such regard, the arrears of revision pensionary/retiral benefits would be limited to a period of 38 months.

Disposed of.

**02.11.2017**

*harjeet*

**(TEJINDER SINGH DHINDSA)**

**JUDGE**

(i) Whether speaking/reasoned? Yes/No

(ii) Whether Reportable? Yes/No