

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-602-2015 (O&M)
Date of decision: 28.04.2017

Krishan Kumar Sharma

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.C.M.Chopra, Advocate for the petitioner
Mr.Nikhil K.Chopra, Additional Advocate General Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner joined Punjab Education Department as FA JBT Teacher (JST) on ad hoc basis on 21.2.1958. He was given extensions with notional breaks and rendered ad hoc service for one year and two months. He was given one increment on 26.4.1959 and his pay was accordingly then fixed at Rs.64/-. Entry to this effect was made in his service book. Petitioner was appointed on regular basis on 27.7.1959 and his pay was fixed at Rs.64/- by giving him benefit of previous ad hoc service towards increment. On 1.3.1965, he was granted benefit of one increment under the then scheme called as 25 lacs scheme in terms of circular dated 29.1.1966, under which, one additional increment has been awarded to those teachers who entered in the government service as on 1.3.1963. Petitioner superannuated on 28.2.1995 as Assistant District Guidance Counselor. It further comes out that when pay scale of Rs.110-250 was given and the pay

of the petitioner was fixed in the year 2012 vide Annexure P7, the said one increment granted on 26.4.1959 on account of ad hoc service rendered during 21.2.1938 to 30.6.1939 and one increment granted on account of 25 lacs scheme was withdrawn. One increment while fixing the pay from the year 1959 was not given at all, whereas the increment granted from 1.3.1965 on account of 25 lacs scheme was specifically withdrawn.

Petitioner being aggrieved of the said pay fixation, approached this Court by way of CWP No.3556 of 2014. The said writ petition was disposed of by this Court vide order dated 1.5.2014 (Annexure P11) with directions to the respondents to pass a speaking order. Consequently, speaking order dated 1.10.2014 (Annexure P14) has been passed, whereby withdrawal of said increments have been justified.

In the reply, it was stated that the petitioner was promoted as master in the grade of Rs.110-250 on 3.12.1964 from JBT post and joined as such. As per circular dated 10.2.1966 (Annexure P3), the trained master who have two years or more than 2 years of service as a trained graduate in the scale of Rs.110-250 as on 1.3.1965 was to get benefit of one increment. Since, the petitioner was promoted and joined after 1.3.1965, therefore, he did not fulfill the condition of two years service as on 1.3.1965. Therefore, said increment was rightly withdrawn. It was also stated that the pay has been correctly fixed.

In the additional affidavit dated 18.8.2016, submitted by the District Education Officer (S.E.), Patiala, it is again reiterated that the petitioner was relieved on 3.12.1964 on account of his promotion in master cadre. However, the record is 50 years old and is not traceable. With the affidavit, copy of the attendance register is attached to press that the

petitioner was promoted in the year 1965 as master and did not fulfill the criteria of two years service.

I have heard learned counsel for both the parties and have also carefully perused the record.

The pay fixation (Annexure P7) shows that when the pay was fixed and the grade of Rs.110 was given from 27.7.1959, one increment on account of ad hoc service was not given. Even if the pay is re-fixed by granting higher scale, the increment already granted cannot be withdrawn. Therefore, to that extent, the impugned order is incorrect.

Now, coming to the one increment granted on account of 25 lacs scheme. The petitioner has placed on file his promotion order dated 7.8.1965 (Annexure P16), which shows that he was promoted as officiating master on 7.8.1965.

The plea of the petitioner is that he was given one increment not on account of his working as a master but for working as a teacher for 5 years under the said instructions. The increments were granted in the year 1959 and 1965. Now, in the year 2012 i.e. after more than five decades, respondents have woken up and without record being available with them, the said increments have been withdrawn.

On merits, there is no justification to withdraw the said increments. Assuming that the increments have been wrongly withdrawn, after 50 years the respondents cannot wake up to withdraw the said increments, stating one or the other ground and also taking the plea that the original record is now not available. If the original record is not available, then there is no basis to pass the impugned order dated 1.10.2014 (Annexure P14) to withdraw the increments.

Therefore, the impugned order dated 1.10.2014 (Annexure P14), affirming the pay fixation vide Annexure P7 is hereby quashed. Respondents are directed to restore two increments, as indicated above and re-fix the pay of the petitioner. Consequently, the revised pension shall also be paid to the petitioner and thereafter the arrears will be released with interest @ 9% per annum from the date the increments were withdrawn till the date of payment, within three months from the date of receipt of a certified copy of this order.

In view of above the present writ petition is allowed.

28.04.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No