

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP NO. 28812 OF 2017
DECIDED ON: DECEMBER 18, 2017

MALKIT SINGH

....PETITIONER...

VERSUS

THE SECRETARY, PUNJAB STATE POWER CORP. LTD. AND ORS RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Tejwinder Singh Hundal, Advocate
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of mandamus, directing the respondents to grant the benefit of promotional increments, in view of circular dated 23.04.1990 (P-1), especially in view of the judgments passed by this Court in CWP No. 10808 of 2007 (P-4), CWP No. 7538 of 2014 (P-5) and CWP No. 19234 of 2015 as well as in view of office orders dated 11.05.2015 (P-6) and 12.06.2015 (P-7 & P-8) passed by respondent-corporation, vide which, the benefit of 23 years promotional increment has already been granted to the similar situated employees. AND further to grant interest @ 18% per annum when it became due till its realization.

2. A scrutiny of the instant petition transpires that the petitioner retired on 28.02.2007, much prior to the filing of instant petition and apparently,

there is an inordinate delay on the part of the petitioner in approaching this Court by way of instant petition.

3. Though, normally a belated service related claim should be rejected on the ground of delay and laches or limitation, yet, there is an exception to the aforesaid rule that where the case relating to a continuing wrong or that where issues relating to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties and the arrears of the pay or refixation of pay can be restricted to 38 months prior to the filing of writ petition.

4. To fortify the aforesaid observations, we can have the pronouncement of Hon'ble Apex Court, titled as "***Union of India v. Tarsem Singh***" (2008) 8 SCC 648 as well as of this Court titled as "***Saroj Kumari v. State of Punjab and others***", 1998 (3) SCT 664. Thus, in the instant cases, claim shall restricted to 38 months.

5. The contention of learned counsel appearing on behalf of the petitioner is that the respondents were requested time and again to release the benefits, which have been claimed through instant petition. Even, he was also constrained to serve legal notice, but till date no conscious decision has been taken. No response has also been received so far and the respondents-authorities are seized of the matter. The petitioner feels satisfied, in case, direction is issued to respondent(s) to deal with legal notice and to take conscious decision.

6. Accordingly, instant petition is disposed of with the direction to the respondents to look into the grievances unfolded by the petitioner in his legal notice dated 26.06.2017 (Annexure P-3) and to take conscious decision in

accordance with service rules as well as circular dated 23.04.1990 (P-1) and in the light of various judgments passed in CWP No.10808 of 2007 (P-4), CWP No. 7538 of 2014 (P-5), CWP No.19234-2015 as well as in view of office orders dated 11.05.2015 (P-6) and 12.06.2015 (P-7 and P-8), within a period of two months, from the date of receipt of certified copy of this order. However, relief shall stand restricted to 38 months in view of *Tarsem Singh's* case and *Saroj Kumari's case (supra)*.

7. The claim with regard to interest on delayed payment shall also be considered in view of the observations made by Full Bench of this Court in case captioned as “*R.S. Randhawa v. State of Punjab*”, 1997 (3) RSJ 318.

8. However, if the petitioner still feels aggrieved against the order passed by the concerned authority, he shall be at liberty to approach this Court.

DECEMBER 18, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes/No*