

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Writ Petition No.6461 of 2017  
Date of Decision: July 31, 2017

Nirmal Singh

...Petitioner

Versus

The Central Administrative Tribunal, Chandigarh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE**  
**HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Vishal Ranjan, Advocate,  
for the petitioner.

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**AMIT RAWAL, J.**

Petitioner having remained unsuccessful before the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") in O.A.No.060/00234/2016 is now assailing the order dated 23.7.2015 (Annexure P-8), whereby his case for stepping up of the pay, has been not acceded to.

Mr.Vishal Ranjan, learned counsel representing the petitioner submitted that on 16.11.1983, the petitioner along with some other persons, including one Joga Singh, was appointed as a Conductor in the Chandigarh Transport Undertaking. As per the seniority list, the petitioner was shown at Sr.No.300, whereas Joga Singh was at 304. Thus, he was junior. Despite being junior, Joga Singh was drawing more pay than the petitioner and in this regard, he submitted a representation for stepping up of his pay to bring him at par, but the request has been rejected.

He further submitted that the Union Territory, Chandigarh adopted the Punjab Pay Rules as well as other service conditions as applicable to the employees of the State of Punjab by framing the rules known as “Conditions of Service of Union Territory of Chandigarh Employees Rule-1992” dated 13.1.1992, which were made applicable w.e.f. 1.4.1991. On adoption of the Punjab Rules by the Union Territory, the said rules are automatically applicable to the employees of the Union Territory, Chandigarh, including any amendment made by the State of Punjab from time to time. In essence all the amendments of the Punjab Government would *mutatis mutandis* apply to the Chandigarh Administration. According to the instructions dated 17.11.1993 (Annexure P-4), issued by the Government of Punjab, the pay of the senior is required to be stepped up where the person junior to him starts getting more pay by virtue of annual increment, promotion, grant of increment etc. It was urged that reasoning assigned by the CAT for declining the case of the petitioner on the premise that it was barred by law of limitation as the petitioner had failed to exercise the option in response to the letter dated 17.11.1993 (Annexure P-4), whereas in fact the claim of the petitioner has been declined by passing the order dated 23.7.2015 (Annexure P-8). It was contended that it was recurring cause of action and at the best, the relief could be confined to arrears upto 38 months in view of the judgment rendered in **Mohinder Singh and Anr. Versus Union of India and Ors., 2014 (3) S.C.T. 326** (para 6).

According to the learned counsel for the petitioner, the Original Application should not have been dismissed in limine. The comments/defence ought to have been called for. Even otherwise, it is a

settled law that the pay of the senior cannot be less than to the junior in the same cadre in view of the doctrine of “equal pay for equal work” and, thus, action of the respondents amounts to violation of fundamental right as enshrined under Articles 14 and 16 of the Constitution of India.

It was next submitted that not availing the option in response to the letter dated 17.11.1993, could not be of any material importance as it was the duty of the department to apprise the employees regarding exercising of the option. Having not confronted with such option, the relief sought cannot be denied. During the course of the hearing, the CAT had granted opportunity to the petitioner to file an affidavit stating whether he was granted any opportunity to exercise option or not. Such an affidavit had been filed but was not adverted to and, therefore, intervention of this Court is required by setting-aside the impugned order.

We have heard the learned counsel for the petitioner, appraised the paper book, impugned order and are of the view that the order rejecting the claim of the petitioner being barred by law of limitation does not call for any interference. The respondent vide letter dated 17.11.1993 (Annexure P-4), had appraised all the departments to seek option from the employees for stepping up of the pay. A perusal of the impugned order challenged before the CAT shows that the petitioner had requested for stepping up of the pay only on 11.5.2015 in the revised pay scale w.e.f. 1.1.1986 on the premise that he did not exercise the option of such revision of pay scale. Even during the pendency of the Original Application, the petitioner was called upon to file an affidavit, which was filed along with M.A.No.060/00570/2016. No satisfactory explanation has been furnished in the affidavit, which would satisfy that there existed reasonable justification

for not exercising the option in time. The claim of the petitioner was not only highly belated but stale. The Original Application has been rightly dismissed in limine for want of explanation in not furnishing option way back in the year 1993 for revision of the pay w.e.f.1.1.1986.

The principle of law enunciated in Mohinder Singh's case (supra), is well recognized, but the facts and circumstances of each case have to be examined. The petitioner herein cannot derive any benefit therefrom in the present case in the absence of exercise of option by him. Having failed to do so within the time, the making of a representation in 2015 would not extend the period of limitation of one year from the date of accrual of action as per Section 21 of the Administrative Tribunal Act, 1985.

For the reasons aforementioned, we do not differ with the findings rendered by the CAT while dismissing the Original Application. Resultantly, the writ petition stands dismissed.

**(AJAY KUMAR MITTAL )  
JUDGE**

**( AMIT RAWAL )  
JUDGE**

**July 31, 2017  
ramesh**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable:**

**Yes/No**