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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15406-2014

Date of Decision : October 25, 2018

Raj Kumar

.... Petitioner.

Versus

Punjab State and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. H.K.Brinda, Advocate
for the petitioner.

Mrs. Anju Arora, Addl. A.G. Punjab,
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing order dated 18.06.2014 (Annexure P/4) passed by respondent No.4, refusing to approve revision of pension of the petitioner on the pretext of change of option beyond two months from 25.10.2012.

2. As per the petitioner, he was appointed as JBT teacher in the Punjab Education Department on regular basis. He was placed in the grade of Rs.80-250 but he was entitled to the grade of Rs.110-250 on account of having higher qualification as per Punjab Government letter dated 23.07.1957. The petitioner approached this Court by way of Civil

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Writ Petition No. 17163 of 2012 and same was disposed of on 4.9.2012 (Annexure P/1) and the said order was implemented qua other petitioners vide order, Annexure P/2. On the basis of that, respondent No. 3 passed order qua the petitioner on 16.1.2013 and the competent authority obtained revised option from the petitioner thereafter and accordingly, the petitioner had given his revised option. However, respondent no.4, instead of granting approval of revised pension, rejected the same on the pretext that revised option was given by the petitioner after two months from 25.10.2012, but failed to consider that the revised option was given after the orders dated 16.1.2013 was passed by respondent No.3 and as such, the present writ petition before this Court.

3. In the reply filed by the respondents, plea was taken that the petitioner alongwith other employees was asked to give option within a period of two months from 25.10.2012, but the petitioner herein did not give the option within the stipulated period and as such, his claim was rightly rejected by the competent authority and the present writ petition deserves to be dismissed.

4. Having considered the submissions made by learned counsel for the parties and appraisal of the record and considering the facts of this case that the pay of the petitioner was revised on 16.1.2013 by respondent No.3 and thereafter, he had given the option, this Court is of the considered view that the time stipulated for exercising the option within two months from 25.10.2012 would not be applicable.

5. Similar controversy was before Hon`ble Division Bench of this

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Court in **O.P.Garg Vs. State of Punjab and others** 2014(2) RSJ 655, where the petitioner had simply taken the plea that he was not aware of exercising the option and had exercised the option beyond the stipulated period, his claim was accepted by this Court, whereas in the present case, the petitioner had exercised the option after revision of pay by respondent No. 3 on 16.1.2013 and on that count, the order dated 18.6.2014 (Annexure P/4) impugned in this writ petition is bad in law and certainly deserves to be quashed. The same is hereby quashed.

6. In view of the above, the present writ petition is allowed. The impugned order dated 18.6.2014 (Annexure P/4) stands quashed. The petitioner shall be entitled to the consequential benefits arising therefrom.

(SHEKHER DHAWAN)
JUDGE

October 25, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes