

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.153 of 2016
Date of decision: 18.09.2018

Geeta Devi Sharma

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.L. Dhingra, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, A.A.G., Haryana.

Ritu Bahri, J.

Petitioner is seeking a writ in the nature of certiorari quashing the order dated 07.10.2015 (Annexure P-4), to the extent it has not granted interest on delayed payment/release of withheld amount of DCRG, denied pension on the last pay drawn by reducing basic pay and pension.

Vide judgment dated 23.07.2013 passed in **Mahender Singh and others vs. The State of Haryana and another**, CWP-741-1995 (Annexure P-8), this Court had allowed the writ petition, whereby petitioners had claimed the benefit of one additional increment after completion 08 years and 18 years of service as per the circular dated 07.08.1992 and higher standard pay scale on completion of 10 years and 20 years of service by counting adhoc service after being regularized. The aforesaid relief was granted keeping in view the judgment passed in **Hanumant Singh and others vs. State of Haryana and others**, 2008 (4) RSJ 756. The judgment passed by learned Single Judge in **Mahender Singh's** case (supra) was,

thereafter, upheld by the Division Bench in LPA No.1510 of 2014, decided on 10.09.2014 (Annexure P-9) by observing as under:-

“The issue involved in this case is as to whether the ad hoc service rendered by the respondents followed by regular service can be counted for the purpose of granting additional increment to them. The Division Bench decision of this Court in Hanumant Singh's case (supra) contained the following directions:-

“(a) ad hoc/work charged service followed by regular service shall not be counted for the purpose of grant of higher pay scale/benefit of Assured Career Progression Scheme on completion of 8/18 or 10/20 years of service.

(b) ad hoc/work charged service followed by regular service shall be counted for the purpose of grant of additional increment in the running scale on completion of 10/20 or 8/18 years of service.

(c) ad hoc service followed by regular service shall be counted for the purpose of pension and seniority.”

Ex-facie, in terms of clause (b) of the decision referred to above, the ad hoc/work charged service followed by regular service shall be counted for the purposes of grant of additional increment in the running scale on completion of 10/20 or 8/18 years of service. While following the said direction, the writ petition filed by the respondents was allowed and the necessary relief has also been granted to them.”

In the present case, a perusal of the order dated 07.10.2015 (Annexure P-4) shows that the petitioner was appointed as JBT on ad hoc basis on 22.09.1970 and her services were regularized w.e.f. 01.01.1979 as per regularization policy. The respondent-department had granted the benefit of additional increment to the petitioner on completion of 8/18 years by counting ad- hoc service. This benefit has been withdrawn by fixing the pay and for this purpose, an amount of Rs.99,757/- had been with-held in the shape of recovery. Subsequently, in view of the judgment passed by Hon'ble the Supreme Court in State of Punjab and others vs. Rafiq Masih, 2015 (1) SCT 195, with-held amount of Rs.99,757/- has been directed to be released as no recovery can be effected after retirement in the matter of re-

fixation of pay, for which, the petitioner/employee is not at fault. A perusal of the impugned order dated 07.10.2015 (Annexure P-4) further shows that benefit of additional increment on completion of 08/18 years could not have been withdrawn keeping in view the judgment passed in Hanumant Singh's case (supra), which has been followed by this Court in CWP No.741 of 1995 and LPA No.1510 of 2014 (Annexures P-8 & P-9).

In view of the above discussion, impugned order dated 07.10.2015 (Annexure P-4) is set aside to the extent of withdrawal of benefit of additional increment(s) on completion of 8/18 years of service (which was earlier granted to the petitioner). The respondents are directed to refix the pension of petitioner by including the benefit of additional increments on completion of 8/18 years of service. Respondents are further directed to pay interest on the delayed payment at the rate of 12% per annum from the date of retirement of petitioner i.e. 28.02.2011 in view of the judgment passed by Full Bench of this Court in R.S. Randhawa vs. State of Punjab and others, 1997 (3) RSJ 318.

Allowed in the above terms.

(RITU BAHRI)
JUDGE

18.09.2018
ajp

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No