

CWP No. 20758 of 2013
DECIDED ON: MAY 11, 2018

....PETITIONER

....RESPONDENTS

I. Issue of a writ in the nature of certiorari for the quashing of the revised pension order issued to the petitioner on 14.5.2012 (Annexure P-), the same being issued after already a downgrading deficient initial pension payment order as is

portrayed in the present writ petition and also for the quashing of the order dated 30.01.2013 (Annexure P-9) the same being erroneous, being based on wrong facts.

II. Further, issue a writ in the nature of mandamus directing the respondent authorities to issue a fresh pension payment order to the petitioner based on correct calculations wherein all benefits are granted to the petitioner from the date they actually became due And further to grant the petitioner the arrears of the pay and pension he has been getting over the years on account of wrong denying and wrongfully delaying of the due benefits to the petitioner

III. And issue a direction to the respondent authorities to stop the recovery of ₹5000 Per Month being effected from the pension of the petitioner Since September 2012 on account of the downgrading of his already deficient pension payment and for the refund the recovery already effected from his pension order and further refund the recovery effected in this regard from the arrears given to the petitioner on account of revised pay scale

IV. Issue a direction to the respondents to pay an interest of 12% to the petitioner on account of delayed payment

V. Further for the issuance of any other writ order or direction as this Honble court may deem fit in the facts and circumstances of the present case”

2. Before proceedings to decide this petition on merits, it would be appropriate to mention that on January 30, 2017, the relief(s) claimed were more particularly described. The said order reads as under:-

Learned counsel for the petitioner submits that petitioner was initially appointed as Store Attendant/Store Munshi on 14.05.1971 on work charge basis. He was designated as Assistant Store Keeper and his services were regularized w.e.f 14.03.1983. The petitioner was granted ACP on completion of 23 years of service.

Learned counsel for the petitioner states that since he had given an option for new grade pay w.e.f 01.01.2006, therefore, he does not dispute the fact that in place of two increments, only one increment is to be given to him on completion of 23 years of service as per undertaking given by him. He further claims that he is now left with two claims only.

The one is that the grade pay given to him vide order dated 18.07.2006 Annexure P-3, was actually given vide order Annexure P-7 dated 19.11.2007, whereas it should be w.e.f 01.01.2006 when he completed 23 years of service. Second is that he is also entitled to enhanced grade pay of ₹150/- as per circular Annexure P-9. It is also stated that while issuing revised pension vide revised pension order Annexure P-1, his pension has in fact been reduced by making some recoveries.

Learned counsel for the respondents is directed to place on record the order on the basis of which recoveries are ordered from the

petitioner. The matter be heard on these two issues only.

Adjourned to 06.03.2017.”

3. A glance at the afore-said order makes it crystal clear that as far as the benefits of two increments on completion of 23 years of service is concerned, he is only entitled to one increment, which has since been granted that too, from the due date. So, prayer in this regard does not survive any more.

4. Another relief claimed by the petitioner is that he is/was entitled to enhanced grade pay of ₹150/- as per circular dated 04.01.2011 (P-9), but that also stands granted to him during the pendency of instant petition. So, no cause of action further survives in this regard also and the petition in this regard has rendered infructuous.

5. Now the only question which survives for determination is whether petitioner is entitled to the increments on account of 23 years service from 15.03.2006 and the answer to this question is in the affirmative.

6. Vide order dated 15.02.2010 petitioner has been granted the said benefit w.e.f the date of passing of order dated 19.11.2007. Once it is clearly evident that 1st ACP was sanctioned and granted to the petitioner on completion of nine years of service w.e.f. 15.03.1992 and 2nd ACP scale on completion of 16 years of service w.e.f. 15.03.1999, thus, after the completion of 23 years of service, petitioner became entitled to the 3rd ACP scale or advance promotional increment w.e.f. 15.03.2006. The grant of afore-said promotional increment on completion of 23 years of service from 19.11.2007 is not legally justified.

There may be delay on the part of the respondents in granting the said promotional increment on completion of 23 years of service but respondents are

legally bound to pay the same from the due date, which in this case became due on 15.03.2006.

7. Accordingly, instant petition is partly allowed. Respondents are directed to grant the promotional increment on completion of 23 years of service w.e.f. 15.03.2006 instead of 19.11.2007 to the petitioner. However, qua the remaining relief(s) instant petition has become redundant and dismissed as such. Respondents are further directed to revise the pension a fresh and make the payment of arrears difference of the amount within a period of two months positively, from the date of receipt of certified copy of this order. In case of non-compliance of afore-said direction, petitioner shall be entitled to interest @9% per annum from the date of institution of instant petition i.e. 17.09.2013 till actual realization.

8. No order as to costs.

May 11, 2018
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>