

**234 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-18479-2015 (O&M)

Date of Decision: 09.10.2018.

Ram Bhajan and others ... Petitioners

Versus

State of Punjab and others ... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Peeush Gagneja, Advocate,
for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

None for respondent Nos. 3 to 5 and 7.

Mr. Anil Kumar Sharma, Advocate,
for respondent No.6.

JITENDRA CHAUHAN.J.(ORAL)

This is a civil writ petition filed under Articles 226 and 227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to release the amount of arrears of service benefits of the petitioners from 15.02.2010 to 14.03.2012 along with interest @ 18% per annum.

The petitioners have been serving in Punjab Water Supply and Sewerage Board, Division, Ferozepur Sub Division Abohar, whereas, petitioner No.5 retired from the office of respondent No.6 as Technician on 30.04.2015. The main grievance of the petitioners is that some of the similarly situated employees had filed CWP No. 10759 of 1990 and the same was decided on 30.05.2008 and as a result of which they were granted the grade of Rs.140-300 from the date of their initial appointment. Against the order dated 30.05.2008, the State of Punjab had filed LPA No.44 of 2009 which

was dismissed vide order dated 15.02.2010. The relevant portion of the order dated 15.02.2010 reads as under:-

“8. It is not disputed that recommendations were made in the year 1967-78 i.e. more than 40 years ago. There is no reason for the State not to have taken any decision in the matter while granting the scale in question to similarly placed persons in categories other than Pump Operators. As per recommendation, Annexure P-206 dated 30.05.2003, the Chief Engineer also recommended acceptance of claim of the petitioners.

9. In such circumstances, objection that recommendation of pay Commission cannot be per se acted upon or that Court cannot go into the question of equation of pay cannot be upheld. Recommendation of the Commission has been accepted by the State for other categories without holding that Pump Operators were a different class. Plea of financial implications is taken care of by statement of learned counsel for the petitioners not to press for arrears. The claim of the writ petitioners for scale corresponding to the scale of Rs.140-300, is thus, clearly made out. Since claim for arrears has been given up and is also held to be otherwise unacceptable, the State is liable to be directed to pass appropriate orders effective from today. The impugned judgment will stand modified accordingly. The State may pass appropriate orders for grant of corresponding scale from today, within one month from the date of receipt of a copy of this order.”

The claim for arrears had been given up and it was

further held to be unacceptable by the Division Bench.

Further the petitioners preferred CWP No. 16926 of 2011 which was disposed of vide order dated 14.03.2012 (Annexure P-3). The relevant portion of the order dated 14.03.2012 reads as under:-

“In these circumstances, the writ petition is disposed of with a direction to the respondents to consider and dispose of the petitioners' claim in terms of Rajinder

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(3)

Paul Gautam's case (supra) and Bitu Ram and others' case (supra). In case the petitioners' claim is found covered under the aforesaid decision, the consequential notional benefits shall be given. However, if the respondents find that the claim of the petitioners is distinguishable, they shall dispose of it by passing a speaking order within a period of four months from the date of receiving a certified copy of this order."

In the order dated 14.03.2012 passed by the

Coordinate Bench, it finds mention that the claim is covered but only the consequential notional benefits shall be given. Now, at this stage, it will be relevant to refer to para No.5 of the written statement of respondent No.6 wherein a specific stand has been taken that the department of Local Audits has cleared the bills for payment to the petitioners with effect from 14.03.2012 that is the date of passing of the judgment in CWP No. 16926 of 2011 (Annexure P-3). In considered opinion of this Court, the decision taken by respondent No.6 is in consonance with the judgment/observation rendered in LPA No. 44 of 2009 and CWP No. 16926 of 2011 wherein notional benefits had been granted and even Hon'ble LPA Bench had allowed the LPA subject to giving up of claim for arrears. So, the benefit released by respondent No.6 is totally in consonance with the judgments mentioned above and no fault can be found with the action of the respondents.

Consequently, the present civil writ petition is hereby dismissed.

09.10.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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