

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

CWP No. 21782 of 2015

DECIDED ON: JANUARY 23, 2018

BAL KRISHAN

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Arvind Kashyap, Advocate
for the petitioner.

Ms. Deepali Puri, Addl. AG, Punjab.

Ms. Meena Bansal, Advocate
for respondents No. 2 to 6.

JASPAL SINGH, J (Oral))

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of certiorari for quashing the impugned order dated May 12, 2011 (P-3), whereby, benefit of 16 years time bound promotional scale w.e.f. November 29, 2010 was kept in abeyance and Further, issuance of a writ in the nature of mandamus directing the respondents to refund the amount of ₹1,08,258/-, which has been ordered to recover from the retiral dues of the petitioner as well as for the grant of 23 years time bound promotional scale, which fell due on November 25, 2009.

2. At the very outset of arguments, it has been submitted by learned counsel for the petitioner that so far as the relief sought by the petitioner for

the grant of 23 years time bound promotional scale is concerned, he does not press for the same. Accordingly, so far as the afore-said relief is concerned, instant petition qua the same relief is dismissed as withdrawn.

3. As far as the impugned order dated May 12, 2011 (P-3) is concerned, it cannot be said to be legally justified, as the petitioner was granted the benefit of 16 years of time bound promotional scale w.e.f. November 25, 2002 and subsequent thereto, he was promoted to the post of Divisional Superintendent vide order dated November 29, 2010. However, due to certain circumstances, the petitioner did not avail the promotion and opt to forego it. It was only, thereafter, the impugned order (P-3) was passed whereby, it has been ordered to hold in abeyance the promotion of 16 years time bound scale. It is an admitted fact that the promotion orders of the petitioner were passed after the completion of 16 years of his service i.e. in the year 2002. There is no justification to withdraw the same in the year 2011 on account of the fact that he has foregone his promotion as Divisional Superintendent. Subsequently, considering the fact that afore-said order is not justifiable, the impugned order dated May 12, 2011 (P-3) was withdrawn vide order dated January 7, 2015. However, during the period prior to January 7, 2015, no benefit was granted to the petitioner. Rather, a sum of ₹1,08,258/- was recovered. The said action on the part of the respondents can be termed to be wrong and illegal and petitioner is entitled to the recovery of the afore-said amount.

4. Accordingly, instant petition is partly allowed, whereby, the impugned order (P-3) is quashed in toto and with further direction to respondents to refund the afore-said amount so recovered by them from the petitioner in the light of impugned order (P-3) within a period of two months

from the date of receipt of certified copy of this order, that too, along-with interest @ 9% per annum. In case of non-compliance of afore-said direction, petitioner shall be at liberty to approach this Court.

5. No order as to costs.

JANUARY 23, 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>