

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

**CWP No. 18259 of 2018
DECIDED ON: JULY 26, 2018**

HARBANS SINGH

.....PETITIONER

VERSUS

PUNJAB STATE POWER CORPN AND ORS

.....RESPONDENTS

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Anupam Bhardwaj, Advocate
 for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of mandamus, directing the respondents to consider his claim for the grant of advance promotional benefits on completion of 23 years services, which was granted to one of his colleague Sh. Sukhdev Singh and other similarly situated employees in view of CWP No. 8589 of 2016 decided on June 05, 2016 as well as CWP No. 20139 of 2015 decided on February 29, 2016 and also CWP No. 2457 of 2018 decided on February 05, 2018. AND further to grant interest on the delayed payments @ 12% per annum when it became due till its realization.

2. The contention of learned counsel for the petitioner is that petitioner joined the respondent department on 30.07.1975 and stood superannuated on 31.07.2011 as Additional Assistant Engineer. He served the department without there being any complaint. Respondent department vide office order No. 20/2000 had decided to grant advance promotional benefits to its employees on completion of 23 years of regular service but later on some clarifications were issued by the Finance Section vide memo dated March 26, 2010 that unqualified employees will not be eligible to get the afore-said benefit.

3. Though, normally a belated service related claim should be rejected on the ground of delay and laches or limitation, yet, there is an exception to the rule that where the cases relating to a continuing wrong or that where issues relating to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties and the arrears of the pay or refixation of pay can be restricted to 38 months prior to the filing of writ petition.

4. To fortify the aforesaid observations, we can have the pronouncement of Hon'ble Apex Court, titled as "***Union of India v. Tarsem Singh***" (2008) 8 SCC 648 as well as of this Court titled as "***Saroj Kumari v. State of Punjab and others***", 1998 (3) SCT 664. Thus, in the instant case, claim shall restricted to 38 months.

5. The contention of learned counsel for the petitioner is that the petitioner approached the respondents by way of filing representation dated

22.03.2018 (P-2) with regard to the relief claimed through instant petition. Despite of the fact that a period of more than four months has elapsed neither any response to the afore-said representation has been received nor any conscious decision has been taken. He further submits that the petitioner feels satisfied, in case, direction is issued to respondents to deal with the representation dated 22.03.2018 (P-2) and to take conscious decision within time bound manner.

6. Without expressing any opinion on the merits of the case, instant petition is disposed of with the direction to the respondents to look into the grievances unfolded by the petitioner in his representation dated 22.03.2018 (P-2), and to take a conscious decision in accordance with law, rules and regulations as well as instructions issued by the government from time to time and also in view of judgments passed in CWP No. 8589 of 2016 titled as **Pritpal Wadhwa vs. Punjab State Transmission Corporation Ltd.**, decided on June 05, 2016, CWP No. 20139 of 2015 decided on February 29, 2016 and CWP No. 2457 of 2018, decided on February 05, 2018, within a period of four months, from the date of receipt of certified copy of this order. However, in case the authorities come to the conclusion that petitioner is entitled to the relief(s) claimed by him through the instant petition, the same shall be released within next one month. Since apparently there is an inordinate delay or the claim is stale put forth by the petitioner. The claim of the petitioner shall stand restricted to 38 months in view of law laid down by Hon'ble Apex Court in "***Saroj Kumari's case supra.***"

7. However, if the petitioner still feels aggrieved by any of the order passed by the concerned authority, he shall be at liberty to have recourse to other remedies available under law including to approach this Court.

JULY 26, 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>