

CWP No. 25564 of 2015 (O&M)

1

226 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 25564 of 2015 (O&M)
Date of decision : 19.12.2018

Kulvinderjit Singh

.....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. P.K. Goklaney, Advocate
for the petitioner.

Mr. Shashi Kumar Yadav, Advocate
for respondent No.3.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Ms. Nitika Jaura, Advocate for
Mr. Sandeep Khunger, Advocate
for respondent No.4.

ARUN MONGA, J(ORAL)

The present Writ petition has been filed seeking issuance of writ in the nature of certiorari quashing impugned order dated 28.10.2015 (Annexure P-25) as also order dated 09.11.2015 (Annexure P-26) whereby the benefit of Category 6 pay scale that was to be granted to the petitioner pursuant to the resolution passed in their favour was withdrawn and was not implemented. Learned counsel for the petitioner contends that the said orders were passed at the back of the petitioner without issuing any show cause notice

2. *Per contra* learned counsel for respondents No.1 and 2 points

out that the said benefit of Category '6' pay scale cannot be granted to the petitioner as he was found dis-entitled to the same in view of letter/order dated 04.01.2002 (Annexure R-1) issued by the Department of Finance. Therein, it was laid down that no category shall be granted a pay scale higher than the pay scale granted vide notification of the Department for the said posts. In tune thereof, the said impugned orders were passed to grant pay scale to the petitioner as notified vide Annexure R-1 by the Finance Department.

3. Learned counsel for the petitioner strongly controverts the said stand taken by the learned State counsel. He has placed strong vehemence on a judgment rendered by this Court in CWP No.7001 of 2013. He contends that similarly situated persons had approached this Court seeking the same benefit as was resolved to be granted to the petitioner but was withdrawn before its implementation. He contends that while allowing writ petition, this Court had directed the respondents to implement the letter dated 04.02.1969 on the basis of which the benefit of Category '6' pay scale was resolved to be granted to the petitioner. He further contends that this Court had directed the implementation of the letter dated 04.02.1969 in toto and ordered that the pay scales of the petitioners be fixed notionally according to their qualification category-wise in terms of letter dated 04.02.1969 from category I to VI from the date of their respective appointments.

4. Placing reliance on the said judgment in CWP No.7001 of 2013, learned counsel for the petitioner contends that the petitioner is also entitled to the same benefit along with arrears. The contentions of similarity

raised by learned counsel for the petitioners is not controverted by learned counsel for respondents. The counter assertion, however, is that the said judgment was challenged by way of LPA No.1798 of 2018, which was though withdrawn with liberty to approach the Single Bench in the writ proceedings by way of an appropriate application/review.

4. Be that as it may, present writ petition is disposed of with a direction to the respondents to decide the case of the petitioner afresh keeping in view the contentions of the learned counsel for the petitioner as noted above as also the judgment rendered by this Court in CWP No.7001 of 2013.

5. In view of the above, the impugned order dated 28.10.2015 (Annexure P-25) as also order dated 09.11.2015 (Annexure P-26) are quashed with liberty to the respondents to pass a fresh speaking order in accordance with law within a period of three months.

Writ petition is thus disposed of.

(ARUN MONGA)
JUDGE

19.12.2018

dkp

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