

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

CWP No.22698 of 2017 (O&M)

Date of Decision:- 16.01.2018.

Ramesh Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S. WALIA**

Present:- Mr. Sunil K. Nehra, Advocate for the petitioners.

Ms. Tanisha Peshawaria, Dy. Advocate General, Haryana.

Rajesh Bindal, J.

Short reply by way of affidavit of Satya Parkash Parmar, Deputy Transport Controller (Store), Haryana, Chandigarh, dated 12.01.2018, filed in Court today, is taken on record.

2. The petitioners, who were working as drivers with Haryana Roadways, have approached this Court with a grievance that they should not be deprived of minimum regular pay scale meant for the post of driver, from the date of their initial appointment. The rules provided for payment of ₹ 3,000/- per month as consolidated salary for two years from the date of appointment. A prayer has also been made for setting aside of order dated 28.07.2017 (Annexure P-9), vide which the benefit earlier granted to some of the petitioners was withdrawn.

3. The issue had earlier been gone into by a Division Bench of this Court in CWP No.22516 of 2012, titled as 'Mohinder Singh and others v. State of Haryana and others', decided on 01.04.2013, wherein it was opined that placing of the petitioners therein, who were similarly situated, in the pay scale meant for Grade-II and two years thereafter in Grade-I cannot be permitted. They would be entitled to the minimum of the pay scale from the date of their initial appointments. Arrears were restricted to three years and two months from the date of filing of the petition.

4. The State aggrieved against the judgment of this Court preferred Special Leave to Appeal before Hon'ble the Supreme Court. After grant of leave, Civil Appeals were dismissed vide judgment dated 31.01.2017 and the judgment of the High Court was upheld. In the last paragraph of the judgment of Hon'ble the Supreme Court rendered in **State of Haryana and another versus Mohinder Singh and others, 2017 (4) SCC, 587**, it has been held as under:-

“While determining the issue, as to from which date the arrears should be paid to the respondents, this Court cannot be oblivious to the rights of those, who had not approached the High Court or this Court, nor can it be oblivious to the rights of those persons, who had entered into a settlement with the State Government, and had accepted arrears, with effect from 1.1.2014. It is imperative for us, in exercise of our jurisdiction under Article 142 of the Constitution, to do complete justice in the matter. We feel ourselves persuaded, to direct the State Government, to pay arrears of wages, to all persons

similarly situated as the private respondents herein, in consonance with the impugned judgment, with effect from 1.4.2013, this would include those employees who had not approached the High Court or this Court, as well as, those who had entered into a settlement with the State Government, agreeing to accept arrears only with effect from 1.1.2014. Ordered accordingly.”

5. Despite the aforesaid facts, still some of the petitioners were not granted the benefit as per the judgment of Hon’ble the Supreme Court in *Mohinder Singh’s case* (supra), whereas in some cases it was initially granted and then withdrawn. In the affidavit filed today, it has been claimed that mistake has been realized, as the order passed by the General Manager, Haryana Roadways, Fatehabad has been withdrawn and he has been directed to pass fresh orders in terms of judgment of Hon’ble the Supreme Court in *Mohinder Singh’s case* (supra).

6. The directions issued by Hon’ble the Supreme Court in *Mohinder Singh’s case* (supra) while exercising the powers under Article 142 of Constitution of India have been violated in impunity. If the officers of the department do not understand the plain language written in the judgment, then the object for which the directions have been given cannot be achieved as still the litigation has been generated. Directions had been issued by Hon’ble the Supreme Court but due to non-compliance thereof, the aggrieved employees have to come to this Court creating unnecessary litigation and wasting Court time as well.

7. As stated in the affidavit that after withdrawal of the order, fresh order will be passed in terms of the judgment of Hon'ble the Supreme Court in *Mohinder Singh's case* (supra), the present writ petition is disposed of as infructuous with costs of ₹ 50,000/- on the respondents. The amount of costs shall be recovered from the General Manager, Fatehabad and A.D.A., who gave opinion in the matter and as a result thereof, the impugned order was passed and the employees concerned were not granted the benefit due to them in terms of Hon'ble the Supreme Court judgment.

8. The matter shall be listed in Court for reporting compliance on 28.02.2018.

9. This Court shall also be apprised of the fact as to whether all other similar situated employees, who are entitled to the benefits in terms of judgment of Hon'ble the Supreme Court, have been granted that benefit or not, if not, the reasons therefor and the name of the person responsible for the same.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

16.01.2018

rajesh.k.khurana

Whether speaking /reasoned : Yes / No
Whether Reportable : Yes / No