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

**CWP No.5127 of 2015 (O&M)**

**Date of decision: May 03, 2018**

Gurbir Singh and others

.....Appellants

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI  
HON'BLE MR. JUSTICE INDERJIT SINGH**

**Present:** Mr. Gurminder Singh, Senior Advocate with  
Mr. Manpreet Singh Longia, Advocate for the petitioners.

Ms. Seena Mand, DAG Punjab.

Mr. G.S. Attariwala, Advocate for respondent No.3.

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**A.B. CHAUDHARI, J**

By the present petition, the petitioners who are 10 in number,  
have sought the following relief:-

*“.....writ in the nature of certiorari for quashing the order dated 16.11.2013 (P/13) vide which the representation of the petitioner for brining them under pensionary scheme of General Provident Fund has been rejected in violation of the policy issued by the Finance Department vide letter dated 14.03.2008 Annexure P/7 which pertains to the employees directly recruited on 01.01.2004 and thereafter and not to the petitioners category who initially were recruited on regular basis in December 2000 after being selected in PCS (JB) in 1999 Batch and then were re-appointed on 02.10.2010 (P/6).”*

**FACTS**

Smelling rat in the appointment in the PCS Executive Branch

and Allied Services Branch as well as Judicial appointments, result sheets of the nominated candidates and the answer-sheets of PCS Executive Branch etc. were seized during the tenure of the then Chairman Mr. Ravinder Pal Singh Sidhu of the Punjab Public Service Commission (for short 'PPSC') between 1996-2002. The appointments were tainted and therefore, the same lead to the action taken by the State Government to terminate the services of the appointees so also criminal prosecution against Mr. Sidhu. In so far as the judicial officers were concerned, the Chief Justice of the High Court constituted the committee for going into the allegations and the committee recommended cancellation of all the appointments of the judicial officers who were recruited in four batches from 1998 till 2002. As a consequence, services of all such judicial officers from were terminated. The petitioners are judicial officers amongst them.

Thereafter, the Full Bench of this High Court decided some questions. This High Court felt aggrieved by the decision of the Full Bench of this High Court and therefore, filed Civil Appeals No.2504-2530 of 2010 in the Apex Court. The Apex Court, vide judgment and order dated 18.03.2010 decided those Civil Appeals with reference to the earlier judgment in the case of **Inderpreet Singh Kahlon versus State of Punjab and others**, (2006) 11 SCC 356, in which the matters were remitted to the High Court for fresh consideration. In the said Civil Appeals filed by this High Court, finally, the Apex Court decided the issue. The Apex Court agreed that the services of all the officers, without

any proof established against them, could not be terminated and therefore, they should be given re-appointments. The Apex Court, however, made the following observations in Para-29 of the Judgment, which we quote hereunder:-

*“29. However, it should not be construed that our judgment is giving seal of approval of the judgment of Full Bench of Punjab and Haryana High Court but with an intention to work out the equities and to do complete justice between the parties and in view of the earlier judgment of this Court reported in (2006) 11 SCC 356 that tainted candidates be separated from untainted, meaning thereby this Court did not accept the submission that it was not practically possible to do so; and further this court had taken note of re-selection held in 2004 in paragraph 92 of the judgment, but held that the effect thereof would be subject to this case, this is the only via-media, through which the respondents could also be granted relief as it could not be established that even otherwise, they would have been declared as unsuccessful candidates. Precisely, that is the reason we have moulded the reliefs granted to the respondents by the High Court as our order is not likely to affect seniority of any of the judicial officers, who had already been working prior to the respondents. We are conscious of the fact that by this procedure, there is no likelihood of any off shoots of the said order and hopefully the whole controversy triggered in the year 1998, would stand settled for all times to come.”*

While dealing with the issue thereafter, the Apex Court found that the re-appointments were required to be given. The present petitioners are some of them who were given re-appointments. The question that has been raised in the present petition is about the benefits which are being claimed in the prayer as quoted by us above.

### **ARGUMENTS**

In support of the petition, Mr. Gurminder Singh, learned Senior Advocate for the petitioners vehemently argued that there is

direction in Para-32 of the Apex Court's judgment in the above appeals, decided on 18.03.2010, to grant continuity of service for the purpose of pension and fixation of notional increments, though, without any financial benefits or arrears. Apart from above directions, he submitted that the State of Punjab in respect of re-appointments of the Judicial Branch Officers made conscious order dated 02.10.2010 (Annexure P-6) with reference to the judgment dated 27.05.2008 of this Court passed in CWP No.20663 of 2002 titled as Harvinder Singh Sindhia versus State of Punjab. The said judgment is in line with the directions given by the Apex Court in Para-32 of the Apex Court's judgment in the above said appeals, decided on 18.03.2010, vide Para-3 of the said order dated 02.10.2010 (Annexure P-6). He then invited our attention to Para-4 of the said order with reference to the aforesaid decision dated 18.03.2010 rendered by the Apex Court and submitted that there is direction under the said order dated 02.10.2010 (Annexure P-6) for fixation of notional increments without any financial benefits or arrears. In the light of the above, he submitted that the present petitioners are also entitled to fixation of notional increments, though, without any financial benefits or arrears as was done by the Government in its conscious decision in respect of the similarly placed petitioners who are before this High Court. Finally, learned Senior counsel for the petitioners contended that it would be travesty of justice if petitioners are treated differently in respect of the relief claimed by the them.

Per contra, learned counsel for the respondents have

vehemently opposed the petition and the relief claimed in the petition. According to the learned counsel for the respondents, there is no such direction in the Apex Court's judgment whatsoever to grant relief claimed by the petitioners. The reading of Para-32 of the judgment dated 18.03.2010 of the Apex Court as above does not anywhere show grant of the relief claimed in the present petition. According to the learned counsel for the respondents, the respondents have already given the benefits in respect of the actual service rendered by them. Nothing further remains to be done on the part of the respondents and therefore, there is no merit in the present petition. In so far as the order dated 02.10.2010 (Annexure P-6) is concerned, learned counsel submitted that what is relevant is the directions of the Apex Court. They therefore, prayed for dismissal of the petition.

### **CONSIDERATION**

We have heard the learned counsel for the rival parties at length. We have seen the entire record including the judgment relied upon by the parties to the petition. It is not in dispute that the Apex Court had not approved of the en masse termination of the services of the judicial officers on the ground of fraud. The Apex Court had made an operative order in Para 32 of its judgment, which reads thus:-

*“32. The candidates who are to be given re-appointments are entitled to the period of service which was rendered by them would be reckoned for the purpose of pension. They would not be entitled to get any arrears of salary or any financial benefits consequent upon the reappointment. The period of*

*service rendered by these candidates would also be reckoned for the purpose of A.C.P./promotion. Actual service be counted for the purpose of pension and fixation of notional increments without any financial benefits or arrears.*

After passing of the said judgment as aforesaid in the operative part, on 02.10.2010, the Government of Punjab, Department of Home Affairs, Judicial-I Branch made the following order:-

*“Government of Punjab  
Department of Home Affairs and Justice  
(Judicial I Branch).*

**ORDER**

*Whereas the State Government on the recommendations of Hon'ble Punjab and Haryana High Court had dispensed with the services of PCS (JB) Officers of 1998, 1999 and 2000 batches vide different orders issued on 6.11.2002 and 27.9.2002. The Hon'ble Punjab and Haryana High Court vide its judgment dated 27.5.2008 delivered in CWP No.20663 of 2002-Harvinder Singh Sindhia versus State of Punjab and others connected PCS (JB) matters set-aside the above said orders dated 06.11.2002 and 27.09.2002 of State Government.*

*2. Whereas in compliance of the above mentioned judgment dated 27.05.2008, the State Government vide its order dated 22.07.2008, issued vide No.1/55/08-3 Jdl (1)/2672-74, dated 23.07.2008 has withdrawn the above mentioned orders dated 06.11.2002 and 27.09.2002 vide which the service of the following PCS (JB) Officers were dispensed with and they were re-instated in service from the date of their joining:-*

| <b>Sr. No.</b>    | <b>Name</b>             | <b>Remarks</b> |
|-------------------|-------------------------|----------------|
| <b>1998 Batch</b> |                         |                |
| 1.                | Sirandip Singh Panag    |                |
| 2.                | Ravinderjit Singh Bajwa |                |
| 3.                | Gurnam Singh Dhillon    | Re-selected    |
| 4.                | Jagdeep Kaur            | Re-selected    |
| 5.                | Anita Nerwal            |                |
| 6.                | Manpreet Kaur           |                |
| 7.                | Avtar Singh             |                |
| 8.                | Pratima Arora           |                |
| 9.                | Puneesh Jindia          |                |
| 10.               | Dinesh Kumar Mittal     |                |
| 11.               | Suresh Kumar Goyal      |                |
| <b>1999 Batch</b> |                         |                |
| 12.               | Kanwaljit Singh         | Re-selected    |
| 13.               | Lukhvinder Kaur Duggal  | Re-selected    |
| 14.               | Arun Kumar Aggarwal     | Re-selected    |

| <b>Sr. No.</b>    | <b>Name</b>             | <b>Remarks</b> |
|-------------------|-------------------------|----------------|
| <b>1998 Batch</b> |                         |                |
| 15.               | Jasvir Singh            |                |
| 16.               | Mohamad Gujzar          |                |
| 17.               | Krishan Kumar Singla    | Re-selected    |
| 18.               | Rajesh Ahluwalia        |                |
| 19.               | Gurbir Singh            |                |
| 20.               | Preeti Sukhija          |                |
| <b>2000 Batch</b> |                         |                |
| 21.               | Pushpinder Singh        |                |
| 22.               | Rachhpal Singh          |                |
| 23.               | Balwinder Kaur Dhaliwal |                |
| 24.               | Shatin Goyal            | Re-selected    |
| 25.               | Harvinder Singh Sindhia |                |

3. Whereas as per the above mentioned order dated 22.07.2008 of the State Government, the above mentioned officers were not entitled to salary for the period they remained out of job until the date of their re-instatement, and the said period was to be counted as the period spent on duty for the purpose of determining qualifying service for pension and other purposes, including grant of increment etc. Non performance of duties for the said period was not to be treated as a break in service.

4. Whereas the Hon'ble Supreme Court of India vide its judgment dated 18.03.2010 delivered in Civil Appeal No.2504-2530 of 2010 (Arising out of SLP (C) Nos.22808-22834 of 2008-High Court of Punjab and Haryana Vs. State of Punjab and others with SLP (C) No.30882-30884/2008 and SLP (C) No.8824-8851/2009 has modified the relief granted by the Hon'ble Punjab and Haryana High Court, Chandigarh vide order dated 27.05.2008.

5. Whereas now the State Government has decided to implement the above said judgment dated 18.03.2010 passed by the Hon'ble Supreme Court of India, accordingly, and following 14 candidates are re-appointed in service from the date of their joining. The seniority of these officers shall be fixed as per the directions of the Hon'ble Supreme Court. These officers would not be entitled to get any arrears of salary or any financial benefits for the period they remained out of job. The period of service rendered by these officers would be reckoned for the purpose of A.C.P./Promotion/Pension. Actual service of the following officers will be counted for the purpose of pension and fixation of notional increments without any financial benefits or arrears:-

| <b>Sr. No.</b>    | <b>Name</b>             | <b>Remarks</b> |
|-------------------|-------------------------|----------------|
| <b>1998 Batch</b> |                         |                |
| 1.                | Ravinderjit Singh Bajwa |                |
| 2.                | Anita Nerwal            |                |
| 3.                | Manpreet Kaur           |                |
| 4.                | Avtar Singh             |                |
| 5.                | Pratima Arora           |                |
| 6.                | Suresh Kumar Goyal      |                |
| <b>1999 Batch</b> |                         |                |

| <i><b>Sr. No.</b></i>    | <i><b>Name</b></i>      | <i><b>Remarks</b></i> |
|--------------------------|-------------------------|-----------------------|
| <i><b>1998 Batch</b></i> |                         |                       |
| 7.                       | Jasvir Singh            |                       |
| 8.                       | Rajesh Ahluwalia        |                       |
| 9.                       | Gurbir Singh            |                       |
| 10.                      | Preeti Sukhija          |                       |
| <i><b>2000 Batch</b></i> |                         |                       |
| 11.                      | Pushpinder Singh        |                       |
| 12.                      | Rachhpal Singh          |                       |
| 13.                      | Balwinder Kaur Dhaliwal |                       |
| 14.                      | Harvinder Singh Sindhia |                       |

6. *It is, however, clarified that the re-appointment of above said PCS (JB) Officers will be subject to the decision of the Curative Petition, being filed, if any, by the office of Registrar General, Punjab and Haryana High Court.*

*Sd/-*  
***A.R. Talwar***  
***Principal Secretary to Govt., Punjab,***  
***Department of Home Affairs & Justice.***

***Dated, Chandigarh.***  
***the 2<sup>nd</sup> October, 2010.***

*Ends. No.1/55/2008-3Judl-(1)/3408 Dated, Chandigarh, the 04/10/2010.*

*A copy is forwarded to the following for information and necessary action in continuation of Government letter No.1/55/2008-3Judl. (1)/3364-65, dated 30.09.2010:-*

*The Registrar, Punjab & Haryana High Court, Chandigarh with the request that posting orders may please be issued to the above said PCS (JB) Officers immediately.*

*The Accountant General, Punjab, Chandigarh.*

*All the concerned officers.*

*Sd/-*  
***Under Secretary Home (B)”.***

The above order Annexure P-6 clinches the issue that has been raised before us. A careful reading of the above order and particularly with reference to Para-3 thereof, clearly reveals in crystal clear terms that the Government of Punjab took a conscious decision to grant the relief in respect of the period for which there was non-performance of duties with a further clarification that the said period shall not be treated as a break in service. Similar is the case with Para-4 thereof, where the fixation of

notional increments without any financial benefits or arrears was mentioned and was accordingly, granted to the officers mentioned below the said sentence of 1998-1999-2000 batch. It is also important to note that vide Para-3 of the aforesaid order Annexure P-6 that the above mentioned officers were not entitled to salary for the period they remained out of job till their reinstatement, and the said period was to be counted as the period spent on duty for the purpose of determining qualifying service for pension and other purposes, including the grant of increment etc. We thus, find from the above order made by the Government of Punjab that the reliefs claimed in the present petition have been granted by the Government of Punjab under Annexure P-6 by the aforesaid clauses 3 and 4 in respect of the similarly placed judicial officers. No reason has been projected before us by the respondents as to why the petitioners could be deprived of the same benefits, which have been granted by the Government of Punjab on the recommendation of High Court to the other judicial officers of the same batches and who are similarly placed. In the absence of any sound reasons, we think, it would be a miscarriage of justice, if the relief claimed by them under the above circumstance is not granted. We are, therefore, convinced that the petitioners would also be entitled to grant of relief as indicated in Para-3 of the order dated 02.10.2010 (Annexure P-6) issued by the Government of Punjab, which we have quoted above and consequent relief for brining the petitioners under pensionary scheme as stated in the prayer. In the result, we think that the present petition must succeed. We, therefore, make the following

order:-

**ORDER**

- (i) Rule is made absolute in terms of prayer, which is reproduced below:-

*“writ in the nature of certiorari for quashing the order dated 16.11.2013 (P/13) vide which the representation of the petitioner for brining them under pensionary scheme for General Provident Fund has been rejected in violation of the policy issued by the Finance Department vide letter dated 14.03.2008 Annexure P/7 which pertains to the employees directly recruited on 01.01.2004 and thereafter and not to the petitioners category who initially were recruited on regular basis in December 2000 after being selected in PCS (JB) in 1999 Batch and then were re-appointed on 02.10.2010 (P/6).”*

- (ii) No order as to costs.

**(A.B. CHAUDHARI)**  
**JUDGE**

**(INDERJIT SINGH)**  
**JUDGE**

**May 03, 2018**

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No