

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

**CWP No.2457 of 2018
DECIDED ON: FEBRUARY 05, 2018**

BAU SINGH ETC

.....PETITIONERS

VERSUS

PUNJAB STATE POWER CORPN AND ORS

.....RESPONDENTS

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

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

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought the issuance of a writ in the nature of mandamus, directing the respondents to consider their claim for the grant of advance promotional benefits on completion of 23 years services, which was granted to one of their colleagues 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 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 petitioners is that

petitioners joined the respondent department as Meter Readers and have since superannuated. They 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 petitioners is that the respondents were requested time and again to release the benefits, which have been claimed through instant petition. Even, petitioners constrained to serve legal notices (P-2 to P-5) but till date no action has been taken. No response to the legal notices (P-2 to P-5) has also been received so far by the petitioners and

the respondents-authorities are seized of the matter. The petitioners feels satisfied, in case, direction is issued to respondents to deal with the legal notice (P-2 to P-5) 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 petitioners in the legal notices (P-2 to P-5), 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 and CWP No. 20139 of 2015 decided on February 29, 2016, 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 petitioners are entitled to the relief(s) claimed by them through the instant petition, the same shall be released within next 45 days. Since apparently there is an inordinate delay or the claim is stale put forth by the petitioners. The claim of the petitioners 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 petitioners still feel aggrieved by any of the order passed by the concerned authority, they shall be at liberty to approach this Court.

FEBRUARY 05, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*