

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

**CWP No. 2510 of 2018
DECIDED ON: FEBRUARY 05, 2018**

AMARJIT SINGH

.....PETITIONER

VERSUS

PUNJAB STATE POWER CORPN AND ANOTHER

.....RESPONDENTS

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kanwaljeet Singh, Advocate
 for the petitioner.

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 grant him the benefit of 23 years advance promotional increments w.e.f. 25.05.1993 as per the policy under Finance Circulars 17/1990 dated April 23, 1990 amended from time to time, with consequential re-fixation of pay and to release the arrears thereof, along-with interest @12% per annum.

2. The contention of learned counsel for the petitioner is that petitioner stood retired on attaining the age of superannuation March 31, 2006.

Petitioner fulfills all the conditions governing for the grant of 23 years advance

promotional increments and he was not placed in a scale which was higher than the scale of his next higher post. Petitioner has not forgone any promotion. As such, there was no disqualification for the petitioner to have earned the benefit of 23 years advance promotional increments. Despite many requests and reminders the said benefit has not been released to the petitioner. Petitioner constrained to serve legal notice dated December 11, 2017 (P-5) but till date neither any reply to the notice has been received nor any conscious decision has been taken. He further submits that he feels satisfied in case a direction is issued to respondents to decide the afore-said legal notice (P-5) within a time bound manner.

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. 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 the legal notice (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 by this Court in LPA No. 883-886 of 2012, CWP No. 10808 of 2007, CWP No. 14589 of 2007, CWP No. 21791 of 2010 and CWP No. 59095 of 2011, CWP No. 20139 of 2015, CWP No. 19234 of 2015, CWP No. 6786 of 2016 and CWP No. 10994 of 2016, which as per the version of learned counsel for the petitioner have attained finality, within a period of four months, from the date of receipt of certified copy of this order. 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 45 days. Since, 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*.”

6. However, if the petitioner still feels aggrieved by any of the order passed by the concerned authority, he shall be at liberty to approach this Court.

FEBRUARY 05, 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>