

CWP No.8423 of 2018

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

Sr. No.117

**Civil Writ Petition No.8423 of 2018
DECIDED ON: April 05, 2018**

MADAN LAL AND OTHERS

..PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. C.L. Sharma, Advocate,
for the petitioners.

JASPAL SINGH, J.

By virtue of the instant civil writ petition, preferred under Article 226 of the Constitution of India, petitioners have sought issuance of a writ in the nature of Certiorari for quashing the order dated 27.03.2015 (P-11) passed by respondent No.1 to the extent of granting revised pay scales from 01.01.1996 on notional basis and further directing the respondents to grant the revised pay scales from 01.01.1996 on actual basis as granted to other similarly situated employees vide Government of Punjab Notification dated 19.05.1998 read with memo/order dated

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17.04.2000 (P-3A/3B) with consequential service benefits and interest @ 12% per annum .

2. A glance at the aforesaid writ petition transpires that petitioners have laid a challenge to the order dated 27.03.2015 (P-11) whereby representation moved by them has since been disposed of implementing the higher pay scales on completion of 4/9/14 years of regular service w.e.f. 01.12.2011 after fixing the pay on notional basis w.e.f. 01.01.1996, in supersession of the previous orders bearing No.8/30/2012-AH2/8895 and 8897 dated 19.12.2012 issued by the department which were otherwise treated as cancelled.

3. The only grouse ventilated through the instant petition is non grant of benefits on actual basis. Here it would be pertinent to mention that petitioners have mainly relied upon the judgment rendered in CWP No.23138 of 2010 (O&M) captioned as ***Dr. Naresh Kumar Kataria & ors. vs. State of Punjab & ors.*** decided on January 05, 2012 (P-7).

4. After having heard and considered the submissions made by learned counsel for the petitioners, in the aforesaid order, it has been observed that on consideration of the matter, respondents have already passed the order dated 21.12.2011, whereby the claim of pay party raised by the petitioners has been accepted, however, with the rider that they shall not be entitled to arrears on fixation of pay on notional basis from the due date(s). However, the said order was considered and discussed by this Court in the aforesaid similar writ petition, in which, following observation was made:-

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“6. The writ petition though has been in a way rendered infructuous as the impugned orders Annexures P-9 to P-11 stand substituted vide the subsequent order dated 21.12.2011 (Annexure P-20). The aforesaid order dated 21.12.2011 however, is modified to the extent that the petitioners are held entitled to notional fixation pay fixation from the due dates.

7. Similarly, the petitioners shall be at liberty to represent for the grant of arrears of pay for a period of 38 months immediate prior to the filing of this writ petition along with copies of the decisions of this court supporting their claim and the said representations shall be considered by the State Government in the light of those binding decisions within four months from the date of receipt of a certified copy of this order.

8. Where the employees have since retired from service meanwhile, it is directed that after fixing their pay on notional basis, the consequential re-fixation of pension shall also take place. The needful be done within four months from the date of receipt of a certified copy of this order.”

5. A glance the aforesaid paragraphs transpires that as far as employees who have since been retired from service are concerned, it was directed that after fixing their pay on notional basis, consequential re-fixation of pension shall also take place. It was only subsequent to the passing of the aforesaid order, impugned order dated 27.03.2015 (P-11) has been passed after having considered all the facts and the judgments earlier rendered. The non-grant of actual benefit w.e.f. 01.01.1996 cannot be said to be unconstitutional as the Government has to consider number of things including the financial burden upon the State. Moreover, benefit which was sought by similarly situated employees/retirees in CWP No.23138 of 2010 (O&M) captioned as **Dr. Naresh Kumar Kataria &**

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ors. vs. State of Punjab & ors. decided on January 05, 2012 (P-7) has since been granted vide impugned order dated 27.03.2015, in which, it has been specifically provided that higher pay scales shall be implemented on completion of 4/9/14 years of regular service. However, that has been restricted to re-fixation of pay on notional basis w.e.f. 01.01.1996. It has been clarified that due benefit shall be granted to the serving and retired officer after fixing their pay on notional basis from due date(s).

6. This Court does not find any illegality or impropriety in the impugned order dated 27.03.2015 (P-11), which is otherwise legally and factually justified. As such, no interference of this Court is justified in the impugned order dated 27.03.2015. Findings no merit in the instant petition, it stands dismissed.

7. No order as to costs.

April 05, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes
Yes/No**