

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.2299 of 2016 (O&M) in
CWP No.18471 of 2011
Date of Decision: 14.03.2018

The Punjab Wakf Board & another

..... Appellants

versus

Sadiq Hussain Naqvi & others

..... Respondents

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

Present: Mr. Manoj Kumar Pundir, Advocate, Advocate for the appellants.

B.S.WALIA, J.

1. Intra-court appeal has been filed against order dated 18.5.2016 whereby the learned Writ Court allowed the claim of the respondent-petitioners holding them entitled to pay revision with effect from the date they had retired after January 1, 2006.

2. Brief facts of the case leading to the filing of the instant appeal are that CWP No.18471 of 2011 was filed by the respondent-petitioners praying for the issuance of a writ especially in the nature of certiorari for quashing the resolution of the Board dated 6.7.2010 to the extent it denied benefit of revised pay scales and arrears as also retiral benefits as per revised pay, Gratuity and Leave Encashment etc. Prayer was also for the issuance of a writ of mandamus directing the Wakf Board to grant monetary benefits to the respondent-petitioners on account of revision of pay scales and to pay them arrears thereof as also to calculate the entire retiral benefits i.e. Gratuity and Leave Encashment on the basis of revision of pay scales and to pay the difference.

3. Intra Court appeal has been filed inter alia on the ground that vide resolution dated 6.7.2010 (Annexure P-5), the Board had granted revision in pay scale to its employees on the pattern of Punjab Government on temporary basis from 1.7.2010 to 31.5.2011 and the same had been confirmed vide resolution dated 14.6.2011 w.e.f 1.7.2010. However, it had been specifically resolved that no arrears of salary would be paid for the period 1.1.2006 to 30.6.2010 especially in view of the financial position of the Punjab Wakf Board for the financial year 2009-2010 not being sound resolution dated 6.7.2010 was prospective in nature and was operative with effect from 1.7.2010 and no employee who had retired prior thereto was entitled to any relief whatsoever as claimed in the writ petition.

4. We have considered the submissions of learned counsel for the appellants and for the reasons recorded hereunder are unable to agree with the submissions.

5. The learned Writ Court allowed the writ petition by taking into account the affidavit of Danishwar Ali, Addl. Law Officer, Punjab Wakf Board, Chandigarh wherein it was mentioned that relief had been granted to employees similarly situated to the petitioners who had approached this Court by way of CWP No.4060 of 2012 in case titled as “**Abdul Shaheed Usmani and others versus Punjab Wakf Board and another**” and that arrears of revised pay scales had been paid to said employees thereby rendering the said writ petition infructuous on 10.12.2015.

6. Relevant extract of the affidavit of Danishwar Ali, Addl. Law Officer, Punjab Wakf Board, Chandigarh is reproduced as under:

“4. That it has been the constant stand of the Board that the petitioners are not entitled to the relief, so claimed, as the Board has adopted the resolution of revision of pay scales w.e.f. 01.07.2010 vide resolution dated 06.07.2010. Further it

has been specifically resolved therein that the arrears will not be paid to the employees of the Board.

5. *That it is pertinent to mention here that the petitioners in CWP No.4060 of 2012 have been granted relief of revision of pay scales and arrears, however, the benefit has been extended only to the serving employees of the Board and the retired employees are not entitled to the same relief as per the resolution dated 06.07.2010, Annexure P-5."*

7. The learned Writ Court took into account that the distinction sought to be made in the affidavit between petitioners of CWP No.4060 of 2012 and the respondent-petitioners to deny them similar relief i.e. that they were retired employees while the petitioners of the aforesaid petition were in service was unreasonable and the classification made impermissible as both retired persons and those in service formed a homogeneous class with reference to the date of revision of pay scale and adoption of pay scales by the Wakf Board in 2010 would relate back to the revision in 2006 especially when relief had been granted to others.

8. No doubt the impugned resolution dated 06.07.2010 (Annexure P-5) provided for grant of pay scales w.e.f 1.7.2010 to 31.5.2011 while holding that no arrears of salary would be paid at all to the employees and further the revised pay scales were confirmed vide resolution dated 14.6.2011 w.e.f 1.7.2010. However, as per affidavit of Danishwar Ali, Addl. Law Officer, Punjab Wakf Board, Chandigarh at page Nos.212 to 216 of the paper book, particularly paragraph Nos.4 and 5 thereof reveals that while taking up the stand that it had been specifically resolved in resolution dated 6.7.2010 that revision of pay scale was w.e.f. 1.7.2010 and no arrears were to be paid to the employees of the Board, paragraph No.5 mentions that petitioners in CWP No.4060 of 2012 had been

granted the relief of revision of pay scales and arrears as they were serving employees of the Board and the retired employees were not entitled to the same relief as per resolution dated 6.7.2010 (Annexure P-5). The learned Writ Court has rightly held that the retired employees as well as those in service form a homogeneous class with reference to the date of revision of pay scale. It is not permissible for the Board to discriminate with regard to grant of arrears of pay scales to its employees by granting the benefit only to those who are in service while denying the same to those who have retired.

9. In the light of the position as noted above, we are of the considered view that no ground whatsoever is made out to interfere with the well reasoned order passed by the learned Writ Court. Accordingly, finding no merit in the appeal, the same is dismissed in limine. Consequently, the application for condonation of delay of 58 days in refiling the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

March 14, 2018

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No