

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10937 of 2016
Date of Decision: 05.04.2019

Om Parkash

... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Chanderhas Yadav, Advocate for the petitioner
Mr. Karminder Singh, Advocate for the respondents

G.S. SANDHAWALIA, J. (Oral)

(1) The petitioner seeks the relief of setting aside of the order dated 18.12.2015 (P10) under Article 226/227 of the Constitution of India by way of a writ in the nature of *certiorari*. The challenge is also raised to the Pension Payment Order (PPO) dated 31.07.2015 (P8) which is stated to be issued wrongly and resultantly, the prayer is made to grant the benefit of pay scale of ₹ 9300-34800 as per the Sixth Central Pay Commission along with grade pay of ₹ 4200/-.

(2) The ground of denial in the impugned order is that the petitioner had retired in the scale of ₹ 1400-40-1800-50-2300 only and not in the scale of ₹ 1400-40-1600-50-2300-60-2600. It was accordingly held by the respondents that the petitioner's pay had been fixed @ ₹ 1720/- at the time of retirement which was matching with the first pay scale of ₹ 1400-40-1800-50-2300 only and not of scale ₹ 1400-40-1600-50-2300-60-2600 and the corresponding pay given by the 5th Pay Commission was ₹ 4500-7000 whereas the claim of the petitioner is that it was ₹ 5000-8000.

(3) The defence thus was as such that it had been erroneously shown in the PPO dated 06.09.2000 (P6) as ₹ 5000-8000 instead of ₹ 4500-7000/-. It

was further held out that for the 5th Pay Commission pay scale @ ₹ 5000-8000, the pay scale at the time of retirement should have been ₹ 1400-2800 and the claim of the pensioner would have been correct had he retired after 01.01.1996.

(4) The factual aspect which stems out of this controversy is to be noticed for proper adjudication.

(5) The petitioner was with the Railway Protection Force having enrolled in 1957 and at the time of his retirement on 30.09.1991 he was holding the post of Sub Inspector (Mechanic) and was drawing pay @ ₹ 1720 w.e.f. 01.04.1991. Keeping in view the same his pension was fixed @ ₹ 852/- w.e.f. 01.10.1991 (P3). It is pertinent to notice that prior to that on 24.09.1986 (P4) while granting the benefits of revised scales from 01.01.1986, he had been granted pay scales as revised of Sub Inspectors from 330-10-530-EB-12-500-EB-15-560 to ₹ 1400-40-1800-EB-50-2300.

(6) The next revision took place on 01.01.1996 whereby the pay scales were revised of certain specified categories of staff as per Annexure B which were clear that for the Railway Protection Force at Sr.No.12(iii) it was from ₹ 1400-40-1800-50-2300 to ₹ 5000-150-8000. It is also to be noticed at this stage that as per Annexure A for the same category at Sr.No.8 Scale No.S-8, the revision was ₹ 4500-125-7000 which respondents are falling back to apply to the petitioner. In pursuance of the said benefit, the revised PPO was issued on 06.09.2000 (P6) whereby he was given 5th Pay Commission scale of ₹ 5000-8000 and thus his revised pension was upgraded to the pay scale of ₹ 2590 plus relief.

(7) Thereafter from 01.01.2006 as per the benefits of 6th Central Pay Commission, the scale was revised from ₹ 5000-150-8000 to Pay Band PB-2

with corresponding pay scale of ₹ 9300-34800 with grade pay of ₹ 4200. However, vide PPO dated 08.09.2008 (P8), the petitioner's scale was shown as ₹ 4500-7000 whereas the benefit as per 6th Pay Commission was the pay scale of ₹ 5200-20200 with Grade Pay of ₹ 2800 and the pension being fixed @ ₹ 5854 plus DR as on 01.01.2006 instead of his claim in the scale of ₹ 9300-34800 plus Grade Pay of ₹ 4200/-. Resultantly, he filed representation dated 16.10.2015 (P9) asking for the said relief which led to the rejection order (P10).

(8) Thus the fall back of the respondents is very clear and is on Annexure A which was part of the revised scales granted from 01.01.1996. However, it has been specified that as per Annexure B, that the post of Sub Inspector Railway Protection Force at Sr.No.12(i) would carry the revision to ₹ 5000-150-8000/- therefore the respondents cannot take recourse and place him in scale of ₹ 4500-7000 which was not to apply to the RPF. The petitioner has quoted references to serving employees, post and pre-retirement who have been granted the benefits. Accordingly an averment has been specifically made regarding on Bhagwan Dass Sharma who retired w.e.f. 31.01.1990 in para 8(iv). It is submitted that he is drawing the benefit of ₹ 9300-34800 plus Grade Pay of ₹ 4200/- and thus drawing pension of ₹ 6750/- whereas the petitioner having retired thereafter and also before 01.01.1996 is only getting the pension of ₹ 5854 on the basis of wrong analogy which has been adopted by the respondents. The only defence taken by the respondents is that the said person does not belong to the petitioner's unit which is not an acceptable explanation.

(9) Resultantly, the present writ petition is allowed and the order dated 18.12.2015 (P10) is quashed and the petitioner's pay scale shall be fixed

Pay of ₹ 4200/- and the payment of arrears be made within 6 weeks from the date of receipt of certified copy of this order. The petitioner shall also be entitled to benefit of interest @ 6% on the said arrears for the delayed payment.

(10) Ordered accordingly.

05.04.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No