

**231 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.12254 of 2016.
Date of Decision: 23.05.2019**

Sadhu Ram Sharma and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. R.K. Arora, Advocate,
for the petitioners.

Ms. Maloo Chahal, DAG Punjab.

JITENDRA CHAUHAN J.

By way of present civil writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioners have sought quashing of action of the respondents in not considering and granting the claim of the petitioners to exercise fresh option with effect from 01.01.1992 instead of earlier option with effect from 01.01.1986 in terms of Punjab Government Instructions dated 24.01.2011 (Annexure P-6), dated 07.02.2011 (Annexure P-7) and 25.10.2012 (Annexure P-8).

The question involved in the present civil writ petition as to whether the petitioners can be allowed to exercise an option in pursuance to letter dated 24.12.1992 (Annexure P-1) by which pay scales were further revised by the respondents has been answered positively by a Coordinate Bench of this Court in **CWP No. 7855 of**

2014 titled as “Jinder Singh and others versus State of Punjab and others decided on 17.12.2018 wherein it has been observed as under:-

“As per the factual matrix narrated hereinbefore, it is clear that the right to re-exercise an option under the instructions dated 24.12.1992 has been accepted by this Court and objection being taken for dismissing the writ petitions on the ground of delay and laches is liable to be rejected. Grant of another opportunity to exercise option as per letter dated 24.12.1992 by which pay scales were revised, has been upheld upto the Hon’ble Supreme Court and there are large number of employees, who have been allowed the said exercise of an option by the respondents themselves. The exercise of an option is only being allowed after the employees’ approach this Court for the grant of similar relief, which is unfortunate. It is a settled principle of law settled by the Division Bench of this Court in case ‘Satbir Singh Vs. State of Haryana, 2002(2) S.C.T. 354 wherein a Division Bench of this Court has held that when the judgment attain finality, duty is casted upon the State to grant relief to all the similarly situated employees. It is not necessary for the State to require each one of its employees to approach the Courts of law for the grant of a relief which the State ought to grant the employees in normal course of its administration. The relevant portion of the said judgment is as under:-

“When judgments attain finality to which the State is a party, duty is caste upon the State to grant relief to its employees who are similarly situated and on

identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is not necessary for the State to require each one of its employees to approach the Courts of law for grant of a relief which the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years now. By referring to few judgments we would only predicate the principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of Dr. (Mrs.) Santosh Kumari v. Union of India and others, JT 1994 (7) SC 565 : 1995(1) SCT 527 (SC) the Hon'ble Apex Court held as under:-

“The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The matter is one of principle and should not depend upon who comes to the court. A more deserving candidate may not have the means of approach the Court.”

After the said judgment of the Division Bench, even the instructions have been issued by the Government of Punjab on 15.07.2002, according to which, it has already been mentioned that everyone should not be force to run to the Court to seek the similar relief and once an order has become final, the relief should be extended to all the similarly situated persons.

Counsel for the respondents-State is unable to controvert the above stated position of law as well as the instructions which have been issued by the State

of Punjab.

Furthermore, it is an admitted fact that the State has been implementing the order passed by this Court wherein, a large number of employees had already been allowed to re-exercise their option in terms of the notification dated 24.12.1992. Once that be so, the State is under obligation to grant the said relief to all the similarly situated persons on the same terms and conditions without asking them/forcing them to approach this Court to seek order for allowing them to exercise the option under the instructions dated 24.12.1992, by which pay scales were revised.

Mr. Vikas Chatrath, counsel for the petitioner, states that once, the circumstances had changed due to which the instructions dated 24.12.1992, by which pay scales were revised, the same necessitated the re-option, the same benefit should have been allowed to all without making them run to this Court.

There is no quarrel with this proposition, as the same has already been allowed more than once by this Court as mentioned in the preceding paragraphs of this judgment.

In view of the above, the present writ petitions are allowed. The respondents are directed to allow the petitioners to re-exercise their option in terms of the Finance Department circular dated 24.12.1992 by which pay scales were revised, within a period of two months from the date of receipt of a certified copy of this order. The pay shall be fixed notionally w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006, as the case may be and the actual benefit which the

petitioners will be entitled for in terms of this judgment will be prospectively from the date of the decision of this Court. The fixation will be done notionally without any arrears to anyone till the date of this order.

In view of above, the present writ petitions stand allowed.”

Learned counsel for the parties are *ad idem* that the case of the petitioners is squarely covered by the judgment rendered in **CWP No. 7855 of 2014** and other connected cases.

In view of the above, the present civil writ petition is also allowed in the same terms as CWP No. 7855 of 2014 and other connected cases, decided on 17.12.2018.

23.05.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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