

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

CWP-14913-2015

Date of decision: 06.12.2019

**NARESHJIT SINGH ANAND
AND OTHERS**

...PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Singh, Advocate with
Mr. A.S. Pannu, Advocate
for the petitioners.

Ms. Sunint Kaur, AAG, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

Learned counsel for the petitioners submits that the question of law raised in the present writ petition has already been answered by a Co-ordinate Bench of this Court while deciding **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Prinicipal Secretary, Department of Irrigation, Punjab and Others** on 10.01.2017. The question of law raised in this writ petition is as to whether an employee is entitled for grant of benefit of proficiency increment after 4 and 9 years, of service from the day the required services is completed or from Ist of January of the next year, in which the required services is completed. The petitioners have been granted the benefit of proficiency step up after rendering 4/9 years of service from Ist of January of next year, in which they completed the requisite service. Prayer of the petitioners is that they should be granted the benefit proficiency increment from the date when they actually complete 4/9 years, as the case may be, immediately and not from Ist of January

Learned counsel for the petitioners argues that the said action was challenged before this Court in **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Principal Secretary, Department of Irrigation, Punjab and Others** which has been decided on 10.01.2017 wherein, the action of the respondents in granting the benefit of the proficiency step up from January of the next year in which the employees complete the requisite service of 4/9 years of service, has been set aside and a direction was issued to grant the benefit immediately upon completion of requisite service. The relevant paragraphs of the judgment are as under:-

I am of the view that the guidelines cannot override the notification issued in exercise of the powers under the Constitution of India which has the force of law. The instructions contrary to the said notification having force of law, are to be ignored. The notification dated 19.05.1988 (Annexure P-8) stipulates that 14 years of proficiency step up to be granted to on completion of 14 years of regular service in the entry scale. Since, the petitioner completes 14 years of regular service on 18.02.1997, therefore, the petitioner is entitled to entry scale on completion of 14 years of service from the said date and the guidelines given in Annexure-R-1 reproduced above are to be ignored. Even in case of Jasbir Singh Jhandu, who was junior to the petitioner and was promoted vide same order, he was also granted 14 years ACP scale on completion of 14 years of service w.e.f. 18.02.1997. Therefore, whether the instructions dated 17.04.2000 (Annexure R-1) were brought to the notice of the Court in said case or not, hardly makes any difference.

Consequently, the present petition is allowed. The respondents are ordered to grant the proficiency step up to the petitioner on completion of 14 years as

on 18.02.1997. Consequently, the pension of the petitioner shall also be revised. The arrears of the revised pay and the pension shall be released to the petitioner within 3 months from the date of receipt of a certified copy of this order. Since, the petitioner approached this Court only in the year 2015, he will not be entitled to any interest on the arrears and interest shall be paid to the petitioner from the date of filing to present writ @ 9% per annum till its payment.

This writ petition came up for hearing on 09.05.2017 on which date the respondents were directed to file an affidavit as to whether the case of the petitioners is covered by the order dated 10.01.2017 passed in **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Principal Secretary, Department of Irrigation, Punjab and Others**. In pursuance to the said direction, the affidavit has been filed by the respondents which is as under:-

That the above mentioned Writ Petition is fixed for hearing before this Hon'ble Court on 01.06.2017.

That the above mentioned Writ Petition was came up for hearing before this Hon'ble Court on 09.05.2017 and the same has been adjourned to 25.05.2017. The Hon'ble Court has passed the following orders:-

"Learned counsel for the petitioner has placed on file a copy of the judgment dated 10.01.2017 passed in CWP No. 5956 of 2015 titled as Manjit Singh Bahra Vs The Principal Secretary, Department of Irrigation, Punjab and others. It is claimed the present writ petition is covered by the said judgment.

Let the State examine the said judgment and file additional affidavit as to whether the case of the petitioner is covered by the said judgment or not and if it is covered, then what is the stand of the State.

Adjourned to 25.05.2017".

That it is respectfully submitted that the case of the petitioner is covered under the judgment dated 10.01.2017, which was passed by the Hon'ble Court in CWP No. 5956 of 2015-titled as Manjit Singh Bahra Vs. State of Punjab and others, although the stand of the Government was that the petitioner was not entitled for Assured career progression scheme/4-9-14 on which he complete the span of the service required for placement in the higher scale. It is submitted that the benefit of ACP/4-9-14 was given to the petitioner vide para 7 of notification no. 7/84/98-5PP1/4426 dated 17.04.2000 (Annexure R-1).

The bare perusal of the affidavit would show that the respondents have conceded that the petitioners' case is covered by the direction given by this Court in **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Prinicipal Secretary, Department of Irrigation, Punjab and Others** decided on 10.01.2017.

Learned State counsel during the hearing also submits that the State has no objection in case, the present writ petition is also disposed of in terms of order passed by this Court in **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Prinicipal Secretary, Department of Irrigation, Punjab and Others** decided on 10.01.2017.

Keeping in view the above, the present writ petition is also allowed in same terms as **CWP No. 5956 of 2015 titled as Manjit singh Bahra Versus The Prinicipal Secretary, Department of Irrigation, Punjab and Others** decided on 10.01.2017.

06.12.2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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