

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

207

CWP-20864-2014
Date of decision : 27.02.2019

Sewa Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.S.Saini, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl.A.G., Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is that the pay of the petitioner should be refixed by granting him three retrenchment increments, which benefit has been allowed to the other similarly situated employees in view of the judgment passed by this Court in CWP No.5568 of 2008 and the restoration of four special increments, which benefit has been allowed to the similarly situated employees in terms of the order passed by the Hon'ble Supreme Court of India in Civil Appeal No.6540 of 2014 decided on 16.07.2014.

During the pendency of the writ petition, on 30.03.2017 a statement was made by the State counsel that the said benefit has also been released to the petitioner. The State was directed to verify as to whether the benefit has been granted to the petitioner and credited to the account of the petitioner or not.

When the case came up for hearing on 10.05.2017, a statement

was made by learned counsel for the petitioner that though the benefit has been allowed but no payment has been received by the petitioner so far in respect of the refixation of the salary of the petitioner and grant of the above mentioned increments. This Court directed the respondent-State to file an affidavit showing the payments made and the refixation of his salary.

In pursuance to the directions given by this Court, an affidavit was filed on 01.06.2017 bringing out certain facts. As per the said affidavit, all the benefits for which the petitioner was entitled for after his retirement were released to him and further, the retrenchment increments which were withdrawn, were also released to the petitioner & other benefits were also given to the petitioner. Further the special increments which were being prayed for have also been released to the petitioner. The relevant paragraph of the said affidavit is as under :-

“That the petitioner was retired from Govt. Service after attaining the age of superannuation i.e. 58 years w.e.f. 30.06.2011 the following retiral dues has been paid to the petitioner after withdrawal of special increments and retrenchment increments as per detail given below:-

Sr. No.	Description	Amount (Rs.)	Date of Payment	Remarks
1	G.P.F.	474002	17-11-2011	S.B.P., Ucha Thara Account No. 55122664841
2	G.I.S.	7254	15-10-2013	S.B.P., Ucha Thara Account No. 55122664841
3	Leave Encashment	272400	06/04/12	S.B.P., Ucha Thara Account No. 55122664841
4	D.C.R.G. (Total 3,47,310-63953) Net to paid=283357	283357	16-03-2012	S.B.P., Ucha Thara Account No. 55122664841

That in compliance of order dated 27.05.2009 in CWP No.5568 titled as Charan Dass and others V/s State of Punjab and others. The pay of the petitioner has been refixed after withdrawal of special increments only, and allowing Three No. retrenchment increment by raising his basic pay from Rs.18040/- to Rs.20570/- recovered amount of Rs.63953/- on account of special increments and retrenchment increment has been released to the petitioner as under:-

5	Release of recovery of special increments	63953	30-12-2014	S.B.P., Ucha Account 55122664841	Thara No.
6	Revised DCRG due to sanction of ACP Scheme 4, 9, 14 & re-storage of 3 no. retrenchment increment	48718	30-07-2014	S.B.P., Ucha Account 55122664841	Thara No.
7	Revised leave encashment due to sanction of ACP Scheme 4, 9, 14 & re-storage of 3 no. retrenchment increment	38210	14-08-2014	S.B.P., Ucha Account 55122664841	Thara No.
8	Arrear of revised pay scale 30%	24141	-	S.B.P., Ucha Account 55122664841	Thara No.
9	Arrear of 4, 9, 14 A.C.P. Scheme	44570	17-09-2015	S.B.P., Ucha Account 55122664841	Thara No.

That in terms of the order dated 16.07.2014 passed by the Hon'ble Supreme Court of India, New Delhi in SLP (C) No.13027 of 2011 titled State of Punjab V/s Tarlok Chand and others. The pay of the petitioner has been refixed after restoring of Four No. Special increments by raising his

basic pay from Rs.20570/- to Rs.21530/- as per detail given below :-

12	Revised Leave encashment after re-storing 4 nos. special increments	14490	02/09/16	S.B.P., Ucha Thara Account No. 55122664841
13	Revised DCRG after re-storing 4 nos. special increments	18475	21-05-2016	S.B.P., Ucha Thara Account No. 55122664841
14	1) Interest payable on delayed payment on DCRG for the periods. i) 1.10.11 to 28.02.12 =5 months =Rs.10154-00 ii) 1.10.11 to 30.11.14 =38 months =Rs.17417-00 =Rs.27571-00 2) Interest payable on delayed payment on leave encashment @ 6% for the periods from 1.10.11 to 31.03.12 =Rs.8172-00 Total=Rs.35743	27571 8172 35743	31-07-2015	Through Banker Cheque No.014732 dated 15-06-2015

That the petitioner is drawing his regular pension amounting to Rs.6970/-P.M vide PPO No.252644/PB. After re-fixing the salary by restoring 3 No. retrenchment increments & 4 Nos. special increments and by granting the proficiency step up on completion on 4, 9, 14 years' service, the pay of the petitioner has been re-fixed (As per **Annexure R-2**) and revised pension has been sanctioned by Accountant General (A&E) Punjab, Chandigarh vide letter No. Pen-12/S-35/2011-12/3541-44 dated 22-01-2016 and raising his basic pension from Rs.7948 to Rs.8319.

It is therefore, respectfully prayed that the writ petition may kindly be dismissed as the same has rendered infructuous as all the retiral

dues has been released to the petitioner.”

Alongwith the said affidavit, respondent had attached Annexure R-2 that is the chart showing the re-fixation of the salary of the petitioner. As per the said chart, the petitioner was to draw the basic pay of Rs.21,530/-as on 01.03.2011 on which, the pensionary benefits of the petitioner have been refixed after the re-fixation of his salary.

Counsel for the petitioner states that there are some errors in the refixation of the salary which has been done by the respondents and he further states that though the basic pay of the petitioner has been fixed as Rs.21,530/-, as per the rules, the petitioner is entitled for 50% of the same as pension, which is not being paid to the petitioner even as now.

Counsel for the petitioner states that the petitioner be given liberty to point out all these discrepancies to the respondents for the rectification of the same by passing an appropriate order.

Counsel for the respondent states that in case any representation is filed by the petitioner bringing out to the notice of the department any of his grievance including the wrong fixation or entitlement of pension at a higher rate, the same will be considered by the authorities within a period of two months of the representation received and a speaking order will be passed considering all the aspects as raised by the petitioner in the said representation. It is directed that after the decision on the representation in case the petitioner is found entitled for any other relief including the monetary relief, the same should also be paid to the petitioner within a period of two months thereafter.

With the abovesaid observations, the present writ petition is disposed of.

February 27, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes