

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

**Civil Writ Petition No.6799 of 2015
Decided on : 19.08.2019**

Rattan Singh Sandhu

... Petitioner

Versus

Punjab & Sind Bank and another

... Respondents

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

Present: Mr. Rohit Ahuja, Advocate
for the petitioner.

Mr. R. Kartikeya, Advocate
for the respondents.

G.S. Sandhawalia, J. (Oral)

In the present writ petition under Article 226/227 of the Constitution of India, the petitioner seeks the benefit of notional promotions, increments, leave encashment, selection grade, fixation/revision of pay scales, revised pension/gratuity, arrears etc. alongwith interest @ 18% from the date when his junior Shri Indu Pal Singh has been granted promotions and other benefits to which he is also entitled to. The same is claimed in pursuance to the judgment dated 18.10.2006 passed by the learned Single Judge in CWP No.1093 of 1994, which has been partly upheld in LPA by the Division Bench and by the Apex Court vide order dated 19.12.2006 and 14.05.2009, respectively.

The defence as such taken by the respondents to deny the said relief is primarily that the petitioner was not serving as Junior Management Grade Scale-I (JMGS-I) on the cut-off-date i.e. 31.12.1976 and his case could not be considered for promotion by relaxing the condition of departmental examination. Resultantly, the claim of the petitioner on the

strength that one Indu Pal Singh who was his junior and had been promoted has been denied. It has been pleaded that the said employee was promoted as Manager (MMGS-II) in the year 1993 after successfully qualifying the written test. The petitioner having been found ineligible under the special promotion drive could not be granted any benefits of promotion. Resultantly, the claim of the petitioner qua the employees as mentioned in paragraph No.24 of the petition, has been differentiated on the ground that they are not para-materia.

No order, as such, having been passed on the legal notice dated 29.10.2009 (Annexure P-13) served by the petitioner, has been brought on record and neither any specific policy as such or the terms of the policy have been referred to in the written statement. Resultantly, this Court does not think it fit to get into the controversy as such at this stage as there is no speaking order or application of mind by respondents apart from the denial of the claim in the written statement on the ground that the petitioner was not in service.

The dispute *inter se* the petitioner and the employer-bank has been pending since 1993 till March, 2016 since the petitioner was dismissed on 31.05.1993, having been appointed as Officer Trainee initially in May, 1976. His appeal had been dismissed on 29.09.1993 by the Appellate Authority and resultantly he filed CWP No.1093 of 1994, which was allowed on 18.10.2006 (Annexure P-1) and he was ordered to be reinstated in service alongwith all consequential benefits. Relevant portion of the said order reads as under:-

“In view of the above, the writ petition is allowed. Impugned orders dated 31.5.1993 and 29.9.1993 (Annexures P-3 and P-5) are quashed. The petitioner be reinstated in service with all consequential benefits i.e. continuity of service, back-wages, seniority etc. The needful be done as expeditiously as possible, but not later than four weeks from the receipt of a certified copy of this order. No costs.”

In LPA No.228 of 2006 preferred by the respondent-Bank only notice qua the back-wages as such was issued on 19.12.2006 (Annexure P-4), which led to the respondent-Bank preferring Special Leave Petition (c) No.20374 of 2007 in which not only the operation of the order of learned Single Judge was stayed but even the order of the Division Bench dated 18.10.2006 was also stayed, vide order dated 19.11.2007 (page No.6). Eventually the said SLP was dismissed on 14.05.2009 (Annexure P-7). The LPA was eventually allowed on 18.09.2009 (Annexure P-12) to the extent that back-wages were not to be given.

Thereafter, the petitioner had also served a legal notice dated 29.10.2009 (Annexure P-13) seeking the said benefits. The SLP filed by the petitioner as such had been allowed on 15.03.2016 and the judgment of the Division Bench had been modified while upholding the judgment of the learned Single Judge and the petitioner was granted 75% back-wages instead of full back-wages. Relevant portion of the said order reads as under:-

“12. With that view, while setting aside the judgment of the Division Bench and upholding that of the learned Single

Judge, the grant of back wages is restricted to 75 per cent instead of full back wages. The respondent-bank is directed to pay 75 per cent of back wages within two months from today.

13. The appeals are partly allowed on the above terms.”

It is in such circumstances, the petitioner is agitating for consequential benefits of promotion etc. which as noticed above is denied in the written statement without any specific order or reference to any rules or regulations of the respondent-Bank.

In such circumstances, it would be appropriate if respondent No.1 passes a speaking order qua the said denial by placing reliance upon necessary rules and regulations on the basis of which the petitioner has been denied consequential benefits, within a period of 3 months from the receipt of the certified copy of this order.

The petitioner shall file a detailed representation within one month giving examples of persons who are similarly situated or otherwise who are junior and who were given the benefit of promotion etc. qua whom he can claim parity as such on the strength of the relevant rules and regulations. Keeping in view the cumulative demand raised, respondent No.1 shall then decide the application by giving reasons for denial, if any. The petitioner will be at liberty to challenge the said order, to be passed, in case the relief is not granted.

The writ petition stands disposed of, accordingly.

(G.S. SANDHAWALIA)
JUDGE

AUGUST 19, 2019
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No