

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

**CWP No.24732 of 2019 (O&M)
Date of Decision: 06.09.2019**

Jatinder Paul and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. G.S.Nahel, Advocate
 for the petitioners.

ARUN MONGA, J.(ORAL)

1. Grievance of the petitioners is qua change of option to seek revised pay scale w.e.f. 01.11.2006 instead of the earlier option exercised by them w.e.f. 01.01.2006. Learned counsel for the petitioners contends that owing to exercise of the said option w.e.f. 01.01.2006, the petitioners' pay have been erroneously fixed in a lower pay scale which is causing them undue financial loss as they are drawing less pay as against their entitlement i.e. enhanced salary in case they exercise their option w.e.f. 01.11.2006.

2. Learned counsel for the petitioners submits that the case of the petitioners is squarely covered by the judgment dated 11.03.2016 rendered by this Court in CWP No. 18644 of 2015 (Annexure P-11). Learned counsel for the petitioners has relied upon on the following observations of my learned brother Rajiv Narain Raina, J.

“The claim in these petitions is for a second opportunity to exercise option by changing the first option from 1st January, 2006 to 1st November, 2006. The change is necessitated because of loss of pay reduction on account of audit objection in the pay fixation of the petitioners w.e.f. 1st

January, 2006, which has resulted grant of lesser pay to the petitioners than their juniors in the same cadre. Due to subsequent change in the pay fixation of the petitioners, the basis of option exercised in the first instance has been removed by supervening events. This revives right to make a fresh option. This right has been denied forcing the petitioners to take legal recourse by way of the instant petition.

3. The issue is no longer res integra as it has received judicial recognition in the Division Bench judgment of this Court rendered in *Randhir Kaur & others v. State of Haryana & others*, 2003 (2) SCT 240. The principle is proliferated in a Single Bench decision also relied upon by the petitioner delivered in CWP No.7464 of 2010 titled 'Surinder Kumar & others Vs. State of Punjab & others' on 25th February, 2010. In view of the declaration of law, the present petition would eminently be covered by the same principle."

3. Learned counsel for the petitioners further points out that the aforesaid judgment has attained finality as no LPA was filed against the same and it has been followed even in the subsequent judgments as reflected from order/judgment dated 08.04.2016 (Annexure P-12), dated 30.01.2018 (Annexure P-15) and dated 06.09.2017 (Annexure P-16). Learned counsel for the petitioners submits that the petitioners also caused issuance of a legal notice dated 25.06.2019 (Annexure P-18) but the same has not been adverted till date by the respondents.

4. Notice of motion.

5. On advance service of copy of the petition, Ms. Ambika Bedi, Assistant Advocate General, Punjab, appears on behalf of respondents.

6. Given the nature of order being passed, there is no necessity to seek return by any of the respondents as no further proceedings and/or

7. Without commenting on the merits of case, writ petition is disposed of with a direction to the respondents to objectively consider the contents of the legal notice dated 25.06.2019 (Annexure P-18) as well as the contents of the writ petition by treating the same as supplementary representation keeping in view the judgment dated 11.03.2016 (Annexure P-11) and thereafter, apply its mind to the petitioners' claim and pass a speaking order, in accordance with law.

8. In case, the petitioners claim is found squarely covered by the judgment *ibid*, prima facie seems to be so, then the respondents shall grant the benefit due to the petitioners and disburse the arrears of salary to the petitioners alongwith interest @ 6% per annum, within a period of three months thereafter.

9. Let the needful be done by the respondents for passing appropriate orders within a period of three months from the date of receipt of certified copy of this order.

10. Disposed of in above terms.

(ARUN MONGA)
JUDGE

06.09.2019

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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No