

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

(133)

CWP-31018-2019

Date of Decision: October 24, 2019

Brajesh Kumar Sharma and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Panwar, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the claim which is being raised by the petitioner is that the petitioner was entitled for the pay scale of Rs.13500- 17250 with effect from 01.01.1996, which was granted by the respondents-State to 20% of the cadre strength i.e. to the cadre in which the petitioner was discharging the duties.

Notice of motion.

On the asking of the Court, Mr. Charanjit Singh Bakhshi, Additional Advocate General, Haryana accepts notice.

Learned counsel for the petitioner states that the claim of the petitioner is squarely covered by the decision rendered by this Court in LPA No.930 of 2010 titled as State of Haryana and another Vs. Dr. K.L. Kumar and others, decided on 10.08.2010 wherein, the judgment dated 06.10.2009 given by learned Single Judge has been upheld to the effect that 20% of the cadre employees are entitled for the higher pay scale of Rs.13500-17250 w.e.f. 01.01.1996. The Special Leave Petition against the said judgment already stands dismissed by the Hon'ble Supreme Court of India vide order dated 12.10.2018.

Learned counsel for the petitioner states that another bunch of writ petitions involving the same question of law on the similar facts came up for hearing before a Coordinate Bench of this Court being CWP No.15887 of 2011 titled as Jagdish Chander Narang and others Vs. State of Haryana and others and other connected cases, on 11.03.2019 and the same was disposed of by the following order:-

"1. This order will dispose of the above mentioned writ petition as well as the connected writ petitions tabulated at the foot of the order (numbering 25 cases) as they are on common ground.*

2. Heard.

3. These petitions have to succeed with the dismissal of the Special Leave Petition in State of Haryana and others v. K.L. Kumar and others (SLP No.39474-39475 of 2013) on October 12, 2018 attaching finality to the Division Bench judgment and order of this Court in LPA No.930 of 2010, State of Haryana and another v. K.L. Kumar and others decided on August 10, 2010 and the dismissal of the review application therein on August 07, 2013.

4. The front runner or lead petition settling the dispute according to learned counsel for the petitioners was the Division Bench ruling in LPA No.1008 of 2010 in State of Haryana and others v. S.P. Sood decided on October 12, 2010. The SLP in connected matters dismissed in 2018 to which detailed reference is not necessary since the State of Haryana is in the process of implementing the judgment of the Supreme Court and its Finance Department has already issued instructions to the various departments where the judgment has to be implemented to send cases along with data for decision making.

5. In view of this, the grievances of the petitioners are on the way to being redressed in due course of time which is around the corner.

6. The aftermath of the litigation is that the petitioners and other similarly situated employees who fall within top 20% of the respective cadres become entitled to the running pay scale of `13500-1 17250 w.e.f. January 01, 1996. The rate of interest on arrears due will be applicable as directed in State of Haryana and others v. S.P. Sood i.e. at the rate of 8% per annum till payment. The monetary entitlements shall be computed and paid to the petitioners within five months from today and a status report on actual disbursements be submitted before the Registrar General of this Court for perusal. The petitioners are also held entitled to all other consequential benefits as may arise out of the judgment covering the case.

7. With the above observations and directions, the petitions stand disposed of.”

Learned counsel for the petitioner states that the present writ petition be also disposed of in the same terms.

Learned counsel for the respondents, on the other hand, states that there is no data provided in the present writ petition to ascertain as to whether, the petitioner was within 20% of the cadre strength as on 01.01.1996 so as to be eligible for the grant of benefit as granted by the Division Bench in LPA No.930 of 2010.

Learned counsel for the petitioner prays that an appropriate direction may be issued to the department to consider the case of the petitioner for the grant of the said relief of pay scale of 13500-17250 and also grant him the said benefit in case he is found entitled for, if his case is covered by the abovesaid judgment. Counsel for the petitioner states that in case, it is found that the petitioner was within first 20% of the cadre post on 01.01.1996, which entitles him for the pay scale of Rs.13500-17250, the same be released to him as well.

Keeping in view the above, the present writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for the grant of benefit of pay scale of Rs.13500-17250 w.e.f. 01.01.1996, in case, it is found that the petitioner was working against the 20% of the cadre post on the relevant date i.e. 01.01.1996. Let the consideration be carried out to ascertain the eligibility of the petitioner for the grant of the benefit being claimed within a period of three months from the receipt of copy of this order and an appropriate speaking order be passed in this regard.

In case, after the decision, it is found that the petitioner was entitled for the said benefit, the appropriate relief will be granted to the petitioner within a period of next one month.

At this stage, this Court is not expressing any opinion on merits of the case as the same are to be decided by the respondents while considering the case of the petitioner in pursuance to this order.

October 24, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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