

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

**COCP No.839 of 2020
Date of Decision: 31.08.2020**

Chanchal Kumari**Petitioner**

Vs

Devinder Pal Singh**Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Harinder Sharma, Advocate and
Mr. Sartaj Singh Thakur, Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. This case was taken up for hearing through video conferencing.

[2]. Petitioner has preferred this petition under Article 215 of the Constitution of India read with Sections 10 and 11 of the Contempt of Courts Act for initiation of contempt proceedings against the respondent for his willful defiance to the order dated 14.10.2019 passed by this Court in CWP No.29197 of 2019.

[3]. For disposal of the case, few facts are relevant to be noticed:-

(i) Petitioner and others filed CWP No.19895 of 2003 titled '*Darshan Singh and others vs. State of Punjab and others*'. The said petition along with other petitions in a bunch matter was dismissed by the High Court vide detailed order dated 26.10.2009 passed in lead case bearing CWP No.15067 of 2007 titled '*Hari Parkash and others vs. State of Punjab and others*'.

(ii) Aggrieved against the aforesaid order, some of the petitioners in the writ petition(s) i.e. 100 in number filed SLP(C) No.14718 of 2010 which was converted into Civil Appeal No.1298 of 2018 and it was decided by the Hon'ble Apex Court vide order dated 30.01.2018.

(iii) During the course of hearing of the aforesaid appeal, the Hon'ble Apex Court asked learned counsel for the respondent-State to have instructions about the actual financial liability of the State, if the relief as sought for was to be granted to the surviving appellants, who were only 100 in numbers according to learned senior counsel for the appellants.

(iv) A statement was made by learned counsel for the respondent-State that there were 214 persons, who were eligible for pension/family pension and the annual liability would come out to be Rs.3.79 crores. The

statement was taken on record and was ordered to form part of the order. All the appellants and others similarly situated persons totalling 214 retired employees between the years 1995 to 1999 were identified. A list of 214 persons was supplied to the Hon'ble Apex Court.

(v) The Hon'ble Apex Court opined that the appellants were entitled to be paid the pension/relief w.e.f. 01.01.2018, but no arrears would be paid. Respondents were directed to pay the appellants and other similarly situated persons total 214 in numbers, pension in accordance with the relevant scheme w.e.f. 01.01.2018. The appellants were not held entitled for any arrears before 01.01.2018.

(vi) Petitioner could not join the array of petitioners/appellants before the Hon'ble Apex Court. Petitioner was petitioner No.16 in CWP No.19895 of 2003. In Civil Appeal No.1298 of 2018 filed before the Hon'ble Apex Court, the petitioner was proforma respondent No.8.

[4]. Petitioner filed CWP No.29197 of 2019 seeking grant of pensionary benefits under the order passed by the Hon'ble Apex Court in Civil Appeal No.1298 of 2018. The writ petition

was disposed of vide order dated 14.10.2019 by way of observing the following in the operative part:-

“Without commenting upon the merits of the case or about the entitlement of the petitioner for the relief which has been claimed by her in the representation dated 23.04.2019 (Annexure P-5), the present writ petition is disposed of with a direction to respondent No.2 to decide the representation dated 23.04.2019 (Annexure P-5) within a period of three months from the receipt of certified copy of this order.

In case, it is found that the petitioner is entitled for any monetary benefits after the decision on the representation, the same should also be paid to her within three months thereafter.

October 14, 2019
jt

Sd/-
(HARSIMRAN SINGH SETHI)
JUDGE”

[5]. Due to non-compliance of the aforesaid order dated 14.10.2019, the present contempt petition has been filed. On 25.08.2020, following order was passed:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner submits that the decision dated 29.06.2020 taken by the Director Rural Development and Panchayat, Punjab is in utter disregard to the directions issued by this Court to decide the representation dated 23.04.2019 within period of three months from the date of receipt of certified copy of the order. The certified copy of this order was received by the Authority well within time but still the representation was not decided within the time prescribed. Petitioner was at Serial No.16 in CWP No.19895 of 2003 decided by the High Court vide order dated 26.10.2009. In the Civil Appeal No.1298 of 2018 filed in the Hon'ble Apex Court, the

petitioner was proforma respondent No.8. Civil Appeal was allowed by the Hon'ble Apex Court on 30.01.2018. The petitioner was one of the eligible candidate, who had retired during the period 11.05.1995 to 30.06.1999 i.e. the cut off date for releasing pension to the retired employees of Panchayat Samitis and Zila Parishads. The relief has been declined to the petitioner on the premise that though the applicant had retired during the aforesaid cut off date but her name was not included in the list of 214 persons eligible for pension/family pension submitted by the State in the aforesaid Civil Appeal No.1298 of 2018 in the Hon'ble Apex Court. Both the parties have asserted and denied the factual position.

Let a specific affidavit be filed by the respondent detailing that the petitioner was not amongst those 214 eligible persons to be granted the benefit in question.

The petitioner may also file an affidavit asserting her entitlement to the relief on the basis of cut off date i.e. 11.05.1995 to 30.06.1999.

Learned counsel for the petitioner may also refer to the case law to the effect that once the relief is granted to a particular category, the same cannot be denied to the similarly situated employees even if they have not ventured to approach the Court.

Adjourned to 28.08.2020.”

[6]. In compliance of the aforesaid order, reply by way of affidavit of Manpreet Singh, IAS, Director, Rural Development and Panchayat Department, Punjab on behalf of respondent No.1 has been filed. Reply is accompanied with a speaking order dated 29.07.2020 (Annexure R-1). The same is taken on record. Operative part of the said speaking order is as under:-

“Although applicant retired during the period

11.05.1995 to 30.06.1999 i.e. cut of date for releasing pension to the retired employees of Panchayat Samitis and Zila Parishads by the Hon'ble Supreme Court vide order dated 30.01.2018 in Civil Appeal No.1298 of 2018 arising out of SLP(C) No.14718 of 2010 Darshan Singh & others Vs. State of Punjab, but her name is not included in the list of 214 persons eligible for pension/family pension submitted by the state in the above said Civil Appeal No.1298 of 2018. The applicant was not even a party in the Civil Appeal No.1298 of 2018. Therefore representation dated 23.04.2019 submitted by Smt. Chanchal Kumari does not deserve to be considered."

[7]. Learned counsel for the petitioner submitted that factum of retirement of the petitioner during the period 11.05.1995 to 30.06.1999 i.e. cut off date for releasing pension to the retired employees of Panchayat Samitis and Zila Parishads has not been disputed by the respondent. Relief has been declined to the petitioner solely on the ground that she was not one of the petitioners before the Hon'ble Apex Court.

[8]. Learned counsel further submitted that petitioner was proforma respondent No.8 in Civil Appeal No.1298 of 2018 filed in the Hon'ble Apex Court. Learned counsel on the strength of **Harbhajan Singh Bains vs. State of Punjab and others, 1986 (3) SLJ 21; Satbir Singh vs. State of Haryana, 2002(2) S.C.T. 354; Maharaj Krishan Bhatt & Anr. vs. State of J&K & Ors., 2008(4) S.C.T. 62 (SC) and State of Uttar Pradesh & Ors. vs. Arvind Kumar Srivastava & Ors., 2015(1) RSJ 704** submitted

that the relief on parity is to be granted to a person, who has not approached the Court. In **Satbir Singh's** case (supra) the Hon'ble Division Bench of this Court was pleased to issue directions to the State in the larger interest and for appropriate administration of justice. On the basis of those instructions, the State of Punjab even issued instructions dated 07.07.2002 to all the concerned Departments to implement the directions.

[9]. Learned counsel also by relying upon **Civil Appeal No.852 of 2020** titled '**Chairman/Managing Director, U.P. Power Corporation Ltd., & others vs. Ram Gopal**' decided on 30.01.2020 submitted that in the aforecited case while relying upon ratio of '**State of Uttar Pradesh vs. Arvind Kumar Srivastava**'s case (supra), the Hon'ble Apex Court has observed as under:-

“22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as

acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

[10]. I have considered the submissions made by learned counsel for the parties.

[11]. There is no dispute with regard to the law laid down in the aforesaid judgments. In the instant case, the Hon'ble Apex Court confined the relief only to the extent of 214 persons after assessing the annual liability of Rs.3.79 crores as submitted by learned counsel for the respondent-State, who was specifically asked to have instructions about the financial liability of the State, if the relief as sought for was to be granted to the 214 candidates. It was only in that situation, the appeal was allowed.

[12]. Admittedly, the petitioner was not amongst those 214 candidates for whom a list was submitted before the Hon'ble Apex Court. The said list has been placed on record along with reply filed by the respondent. Perusal of the list would show that name of the petitioner does not figure in the said list. However, while parting with the order dated 29.07.2020, the respondent has admitted that the petitioner had retired during the period

11.05.1995 to 30.06.1999 i.e. cut off date for releasing pension to retired employees of Panchayat Samitis and Zila Parishads.

[13]. In view of case law(s), the petitioner appears to be entitled to the relief on parity with similarly situated employees but the relief is subject to financial constraints as were observed by the Hon'ble Apex Court in Civil Appeal No.1298 of 2018, for which a specific information was sought by the Court and was submitted by the respondent-State.

[14]. In view of aforesaid facts, there is no intentional or wilful defiance of the order. Technically no contempt of Court is made out, however the respondent has admitted that the petitioner had also retired during the cut off date for releasing pension to the retired employees of the Panchayat Department, therefore, I deem it appropriate to discharge the rule. Since the order dated 29.07.2020 has come into existence, therefore, the petitioner would be within her right to challenge the same in accordance with law.

[15]. With the aforesaid observations, this contempt petition is disposed of.

August 31, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No