

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

CWP No. 19282 of 2012
Date of Decision:02.03.2020

Kirpal Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Jyoti Sareen, Advocate
for the petitioner.

Mr. Navdeep Chabra, DAG, Punjab.

HARSIMRAN SINGH SETHI, J.(Oral)

In the present writ petition the prayer of the petitioner is to the grant of notional promotion as a Technical Grade-I, Technical Grade-II as well as to the post of Senior Supervisor with effect from the date the juniors of the petitioner were promoted. He further prays that the petitioner is entitled for grant of proficiency step-up, which benefits were not given to the petitioner during his service career without any valid justification.

At the time of hearing, learned counsel for the petitioner states that the petitioner is not pressing the claim of the grant of notional promotions.

Learned counsel for the petitioner states that in view the fact that the respondents vide order dated 16.12.2019 has refixed the seniority of the petitioner and petitioner intends to challenge the same

and the petitioner will seek the grant of notional promotion during those proceedings, if initiated by the petitioner.

Learned counsel for the petitioner restricts the claim of the petitioner for the grant of interest on the delayed release of the pensionary benefits in this petition only.

Learned counsel for the petitioner states that the petitioner is only pressing her claim for the grant of interest on the delayed release with regard to the various payments which have been released to the petitioner during the pendency of the writ petition such as arrears on the grant of the benefit of proficiency step up after completing 18 and 24 years of service, which has been given to the petitioner during the pendency of the writ petition. Learned counsel for the petitioner argues that the petitioner was entitled for the grant of proficiency step up after rendering 18 and 24 years of service, which the petitioner had completed in the year 1991 and 1997 respectively but, despite being fully eligible, the said benefit was not extended to the petitioner. The prayer of the petitioner is for grant of the said benefit alongwith consequential benefits of refixation of pay as well as pensionary benefits, arrears upon refixation of pay and pensionary benefits alongwith interest.

Upon notice of motion, respondents have filed the reply, in the reply, the respondents have attached the order which has been passed during the pendency of the writ petition. As per the averments made in the reply, the benefit of proficiency step up on completion of 18 and 24 years of service was reexamined by the respondents and the

said benefit has been extended to the petitioner vide order dated 20.03.2014 (Annexure R-2). As per the reply, the petitioner has been given an increment on account of proficiency step up with effect from 20.09.1991 on completion of 18 years of service and another increment with effect from 20.09.1997 on completion of 24 years of service. The relevant paragraphs of the reply are as under:-

“(1) That the benefit of one increment of proficiency step up after completion of 8 years of service of the petitioner has already been granted to him by the office of General Manager, Punjab Roadways, Nangal vide order endst. No. 2734-36/ECW Dated 8.5.1992. The copy of the order dated 8.5.92 is Annexure R-1. However, the petitioner has not mentioned about the grant of this benefit to him while filing the present petition and concealed the material facts from this Hon'ble Court. The case for grant of increments after completion of increments of 18 and 24 years of service was again examined and the same has been granted to the petitioner. The benefit of increments after completion of 18 years of service has been granted to the petitioner w.e.f. 20.09.1991 and after completion of 24 years of service has been granted w.e.f. 20.9.97 vide order No.1202-06/ECW dated 20-3-2014. The copy of the order dated 20-3-2014 is enclosed herewith as Annexure R-2 and its true translation into English is Annexure R-2/T. Accordingly, the pay of the petitioner was again refixed vide order No. 3266-70/ECW dated 11-8-14 and the said order is enclosed as Annexure R-3 and its true translation into English is Annexed herewith as Annexure R-3/T. After fixation of pay of the petitioner, the bill for the amount of Rs. 71,824-00 has been submitted to the Treasury Office Jalandhar for drawal by the office of answering deponent. The petitioner has submitted an affidavit dated 5-3-2010 as per Govt. instructions to the office of Deponent in which he has opted for the benefit of increments after completion of 4-9-14 w.e.f. 1-1-2006 years. The order dated 12-8-2014 has been passed by the answering deponent keeping in view the option given by the petitioner. The said order is Annexure R-4 and its true translation into English is Annexure R-4/T.’

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only claim which is being pressed in this writ petition is that petitioner was entitled for the grant of increment on account of proficiency step up after rendering 18 years and 24 years of service, which was not granted to the petitioner during his service career, despite being fully eligible. The respondents, during the pendency of the writ petition, have already granted the said benefit to the petitioner vide Annexure R-2 even the arrears after the re-fixation of pay and pensionary benefits amounting to Rs.71, 824/- have also been extended to the petitioner. Said fact is not being disputed by the learned counsel for the petitioner.

Once, the benefit as being claimed by the petitioner in this writ petition has been extended by the respondents upon reconsideration, it is clear that the said benefit was wrongly denied to the petitioner at the time, when he became eligible for the grant of same in the year 1991 or in the year 1997 as the case may be.

As per the learned counsel for the petitioner, the said benefit has been extended to the petitioner in the year 2014, though, the petitioner was entitled for the same after rendering 18 years of service with effect from 20.09.1991 and thereafter again with effect from 20.09.1997 on completion of 24 years of service, hence, the petitioner is also entitled for the interest on the arrears which have been paid to the petitioner now in the year 2014.

Learned counsel for the respondent has not been able to

raise any ground as to why, the benefits, which have been granted by the respondents to the petitioner vide Annexure R-2 in the year 2014, were not released to him when he was eligible for the release of the same in the year 1991 and in the year 1997. In the absence of any cogent reason, it can be very well said that the non-release of the benefit of increment on completion of 18 years of service on 20.09.1991 and thereafter again on completion of 24 years of service on 20.09.1997 was due to inaction on the part of the respondent. Once, the petitioner has suffered prejudice due to the inaction on the part of the respondents, the petitioner becomes entitled to be compensated by grant of interest on the delayed release of payments. The petitioner has not been able to use the amount when he was in service and had to approach this Court to claim the said benefit and the same was only released to the petitioner during the pendency of this writ petition.

Keeping in view the above, on an amount of Rs.71,824/-, which has been released to the petitioner during the pendency of the writ petition as arrears of the benefit of grant of two increments on completion of 18 years and 24 years of service with effect from 20.09.1991 and 20.09.1997 respectively, the petitioner will be granted interest @ 9% per annum from the date amount became due till the same was released to him.

Let the amount of interest for which the petitioner became entitled for under this order will be calculated within a period of two months from the receipt of the certified copy of this order and

the amount so calculated will be released to the petitioner within a period of one month thereafter.

With regard to the change of the seniority by the respondents by passing an order dated 16.12.2019, the petitioner will be at liberty to avail appropriate remedy in case he feels aggrieved against the said order.

Present petition is disposed of in the above terms.

[HARSIMRAN SINGH SETHI]
JUDGE

March 02, 2020

rashmi

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no