

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

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Civil Writ Petition No.19361 of 2013
Date of Decision: March 12th, 2020

Madan Lal

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Ms. Ambika Bedi, Assistant Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 04.06.2013 (Annexure P-11) passed by the District Education Officer (Secondary Education), Jalandhar, whereby the option given by the petitioner for grant of revised pay scale with effect from 01.07.1992 instead of 01.01.1986 has been rejected on the ground of delay and laches relying upon the letter dated 25.10.2012 (Annexure R-1/1), wherein two months' time limit has been fixed for employees for exercising their option for the grant of benefit of the Instructions dated 23.04.2012 (Annexure P-7). It has been asserted that the petitioner is entitled to the benefit of the said instructions as it does not grant any arrears and the benefit of such change of option is of notional pay fixation from the date it has been opted out from the revised scales or 01.03.2012, whichever is later.

2. Counsel for the petitioner, placing reliance upon the Instructions dated 23.04.2012 (Annexure P-7), which have been issued in pursuance to the decision of the Government of Punjab, according to which petitioner had opted for the change of the date from which the revised pay

scales were to be given effect to as far as the petitioner is concerned stands rejected vide letter dated 04.06.2013 (Annexure P-11) relying upon the order/letter dated 25.10.2012 (Annexure R-1/1), which fixes a period of two months of issuance of the said letter for the change of option. He contends that the said decision would be contrary to the judgment passed by this Court in *LPA No.1838 of 2015* titled as *Bal Krishan Versus State of Punjab and others*, decided on 16.02.2017. He asserts that the respondents have placed reliance upon the judgment passed by the learned Single Judge in CWP No.13604 of 2014 decided on 16.07.2014 which has been set aside. He, thus, contends that the impugned order dated 04.06.2013 (Annexure P-11) cannot sustain and deserves to be set aside.

3. Counsel for the State, on the other hand asserts that the respondents have rightly proceeded to reject the claim of the petitioner in the light of the letter dated 25.10.2012 (Annexure R-1/1) issued by the Department of Finance, which fixes two months' time limit for employees for exercising their option as per the Punjab Government instructions/letters issued from time to time as also the judgment of this Court referred to in the said letter. She, therefore, contends that the rejection of the claim of the petitioner is fully justified, especially when there has been inordinate delay on the part of the petitioner in applying for the change of option.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. The fact that the respondents have relied upon the letter dated 25.10.2012 (Annexure R-1/1) for rejecting the claim of the petitioner

coupled with the judgment passed by learned Single Judge of this Court in *CWP No.13604 of 2014* titled as *Bal Krishan Versus State of Punjab and others*, decided on 16.07.2014, appears to be misplaced in the light of the fact that the judgment of the learned Single Judge stands set aside by the Division Bench of this Court in LPA No.1838 of 2015, which was preferred by Bal Krishan and was decided on 16.02.2017. There the Court after setting the order of the learned Single Judge, directed the respondents to consider the claim of the petitioner in the light of the decision rendered by this Court in various judgments, one of which is *CWP No.7464 of 2009* titled as *Surinder Kumar and others Versus State of Punjab and others*, decided on 25.02.2010 (Annexure P-5). The impugned order dated 04.06.2013 (Annexure P-11), therefore, cannot sustain and is hereby set aside.

6. The writ petition is allowed.

7. Directions are issued to the respondents to grant the benefit to the petitioner after considering the request of the petitioner for change of option for grant of revised pay scale w.e.f. 01.07.1992 instead of 01.01.1986 in the light of the aforesaid judgment of this Court in Surinder Kumar's case (supra) within a period of four weeks from the date of receipt of copy of this order.

March 12th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No