

CWP-24493-2012

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

CWP-24493-2012

Date of Decision: 12th March, 2020

J.K. Jain

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Wadhawan, Advocate,
for the petitioner.

Ms. Ambika Bedi, Asstt. A.G., Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order dated 04.09.2012, which was issued on 26.09.2012 (Annexure P-17), whereby the pay of the petitioner has been re-fixed by reducing the same and recovery has been ordered to be effected because of the proficiency step up, which was granted to him.

2. The facts of the case are that the petitioner was appointed through Punjab Public Service Commission on regular basis as Block Development and Panchayat Officer on 01.04.1985. He continued as such on the said post till his promotion as District Development and Panchayat Officer on 28.07.1995. A notification was issued by the Government of Punjab on 20.08.1993 (Annexure P-2), according to which the petitioner and other officials were to be granted the benefit of the higher pay-scale on

proficiency step up/time-scale on completion of eight years of service. Petitioner was granted the benefit of the said notification w.e.f. 20.08.1993, which was the date of issuance of the notification. Petitioner continued as District Development and Panchayat Officer and on completion of further eight years of service, he was granted the benefit on 28.07.2003.

3. In the meanwhile, there were certain anomalies in the pay scales which had occurred and the same were removed with the issuance of a notification i.e. 20.08.1993 and the benefit was not granted w.e.f. 01.01.1986, which benefit was denied to the petitioner, which was challenged in CWP No.1767 of 1995, which was allowed on 02.02.2011. The matter was taken by the State of Punjab to the Division Bench against the judgment passed by the learned Single Judge, dated 02.02.2011, in CWP No.1767 of 1995, titled as 'Mohinder Singh & others Vs. State of Punjab & others' (Annexure P-15) by way of Letters Patent Appeal i.e. LPA No.1798 of 2011, which was initially dismissed on 19.07.2012, however, the review application, which was preferred by the State of Punjab, was allowed vide order dated 13.09.2012 (Annexure R-6), whereby the petitioner, who was initially granted the benefit as per the judgment of learned Single Judge from the date of recommendation of the Pay Commission, was denied the said benefit.

4. This review order dated 13.09.2012 (Annexure R-6) was made the basis for passing the impugned order after giving personal hearing to the petitioner. Taking it as, if the petitioner was not entitled to the benefit of the notification at all, the claim which has been rejected by the Division Bench

of this Court, was to the extent of granting the benefit of the said notification w.e.f. 01.01.1986 instead of 20.08.1993. On this basis, counsel contends that the impugned order dated 04.09.2012, which was issued on 26.09.2012 (Annexure P-17) cannot sustain.

5. On the other hand, learned counsel for the State submits that the petitioner has rightly been denied the claim, which has been made by him. The benefit, which was given to the petitioner, had to be granted with effect from the date of notification only and not prior thereto. The benefit, which has been denied to the petitioner, is only to the extent what was granted to him from 01.01.1986, as per the order of the learned Single Judge. This was in pursuance to the order dated 13.09.2012 (Annexure R-6). Assertion has, thus, been made that the impugned order being in consonance with the Division Bench judgment of this Court, does not call for interference by this Court.

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

7. The facts as have been narrated above are not in dispute. The only question, which needs to be considered and decided is, 'whether the impugned order which is alleged to be based upon the Division Bench judgment of this Court in RA No.31 of 2012 in LPA No.1798 of 2011, dated 13.09.2012 (Annexure R-6) is indeed attracted to the claim which has been put forth by the petitioner and granted to him in pursuance to the notification dated 20.08.1993 (Annexure P-2)'.

8. Perusal of the documents, which have been placed on record as also the Division Bench judgment of this Court, dated 13.09.2012 (Annexure R-6), would clearly show that the same was restricted to the benefit of the said notification dated 20.08.1993 w.e.f. the date of notification and not 01.01.1986, the date of the revision of the pay-scale. The said benefit, in any case, was not admissible to the petitioner as per the notification dated 20.08.1993 (Annexure P-2). Since the petitioner has only been granted the benefit as per the notification dated 20.08.1993 (Annexure P-2), the respondents appear to have proceeded on the wrong assumption that he has been granted the benefit w.e.f. 01.01.1986, whereas the benefit has only been granted to him with effect from the date of the notification. The impugned order having been passed on wrong assumption, the order cannot sustain and as the order dated 13.09.2012 (Annexure R-6) would not be, in any manner, attracted to the benefit which has been granted to the petitioner in pursuance to the notification dated 20.08.1993 (Annexure P-2).

9. In view of the above, the present writ petition is allowed and the impugned order dated 04.09.2012, which was issued on 26.09.2012 (Annexure P-17) is hereby quashed.

(AUGUSTINE GEORGE MASIH)
JUDGE

12th March, 2020
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No