

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

Sr. No.118

CWP No.20812 of 2020

DATE OF DECISION: December 04, 2020

RAM KISHAN JAIN

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Shivam Malik, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner retired from the post of Accounts Clerk on 31.07.2007. Five years after his retirement, vide order dated 18.07.2012 the 6th respondent was granted notional pay fixation on the basis of promotion to the post of Deputy Superintendent w.e.f. 26.07.1997 and as Circle Superintendent w.e.f. 11.04.2007 respectively based upon judgment dated 09.07.2010 passed by this Court in CWP No.11254 of 2005 and CWP No.17459 of 2005. Six years after the said order was passed, the petitioner submitted a representation dated 17.05.2018 (Annexure P-3) seeking revision of pensionary benefits on the basis of deemed date of promotion as Deputy Superintendent and Circle Superintendent and for arrears of pay as the 6th respondent was junior to the petitioner. No response was received and thus, CWP No.1451 of 2019 titled as '*Ram Kishan Jain vs. The State*

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of Haryana and others' was filed. The same was disposed of vide order dated 21.01.2019 with a direction to the respondents to pass an appropriate speaking order on the claim of the petitioner. Thereafter, impugned order dated 21.11.2019 (Annexure P-7) has been passed whereby pensionary benefits have been revised on account of notional promotion to the rank of Deputy Superintendent and Circle Superintendent but arrears of salary have been refused on the ground of delay and for remaining silent while in service.

Learned counsel for the petitioner submits that a junior was promoted to the senior post of Deputy Superintendent and Circle Superintendent w.e.f. a back date and the petitioner deserves to be granted the same benefit. The delay was not on account of any wrong committed by the petitioner and consequently he was also entitled to arrears of salary. Reliance has been placed upon *HVPNL, Panchkula and others vs. Smt. Sheelawanti, 2019(1) S.C.T. 58*.

It is not in dispute that the petitioner did not raise any dispute regarding his non-promotion while he remained in service. The facts further show that junior was given ante-dated promotion on the basis of directions given by this Court. However, even he was not given any arrears of salary as is apparent from order dated 18.07.2012. The petitioner raised his claim for the first time 11 years after his retirement, by when the claim had become stale. The judgment relied upon in *HVPNL, Panchkula (supra)* is not applicable to the facts of this case. In the said case, the services of the employee had been illegally terminated and the same were challenged promptly by him resulting in order of reinstatement. Meanwhile, juniors

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had been regularized and the employee had to file a civil suit for claiming the same benefit. During the pendency of proceedings, benefit of regularization was also granted but by then the employee had passed away. His widow sought further benefit of promotion w.e.f. the date the juniors had been promoted and this benefit was granted by this Court. There was no delay on the part of the employee. He was in service when his lawful dues were denied to him. The facts of the present writ petition are distinct from the facts of the said case. The competent authority has passed a speaking order and I find no illegality therein.

The writ petition is accordingly dismissed.

December 04, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No