

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 20998 of 2019

Date of Decision: March 02 , 2021.

Tarsem Chand Chopra

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Mr. Sarthak Gupta, Advocate
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner seeks quashing of orders/communications dated 31.05.2019 (Annexure P1), 22.04.2019 (Annexure P2) and 18.07.2018 (Annexure P3) whereby petitioner's representation for release of revised pensionary benefits on the basis of pay-band and grade pay of the post of Sub Divisional Officer in Bhakra Beas Management Board, as revised from time to time and granted to similarly situated employees, namely, Nirmal Singh and

others, has been rejected on the ground that the petitioner was not a party to CWP No.19401 of 2011 decided on 16.05.2016.

Petitioner admittedly joined the Punjab Irrigation Branch in the joint State of Punjab as Junior Engineer on 15.05.1959. He was subsequently transferred and posted on 27.02.1961 under the Beas Management Board, which was a wing of Beas Satluj Link Project. Petitioner retired as Sub Divisional Officer (SDO) while serving the Bhakra Beas Management Board (BBMB) on 31.10.1995. Retiral benefits of the petitioner were finalized on the basis of notional pay by treating him an employee of the Punjab Irrigation Department without granting benefit of last pay drawn by him in BBMB. Similar action qua other employees was challenged in a number of writ petitions. CWP No.6768 of 1996 titled as Nirmal Singh v. State of Punjab and others was decided on 10.12.1996 by a Division Bench of this Court. The respondents were directed to re-compute retiral benefits due to the petitioner therein on the basis of his last pay drawn. The said order was challenged by the respondents before the Hon'ble Supreme Court by way of SLP No.10098 of 1997. Same was dismissed on 06.11.1998. Consequently, the said petitioners were granted the pensionary benefits by taking into consideration the last pay drawn by them in BBMB. However, the present petitioner was not granted the said benefit, therefore, he filed CWP No.12219 of 2001, which was allowed on 12.10.2001 in terms of order dated 04.05.2001 passed in CWP No.5234 of 2000. Consequently, petitioner was granted pension by his parent department as per last pay drawn by him in BBMB w.e.f. 01.11.1995.

CWP No.19401 of 2011 was filed by Nirmal Singh and others

regarding implementation of the recommendation of the 4th Punjab Pay Commission regarding pension and other retiral benefits. In contempt petition filed by the said petitioners, it was observed that the issue as to whether the petitioners are entitled to revised pension on the basis of pay-scale admissible to the employees of BBMB or the State of Punjab was not the dispute raised in the order passed by the Division Bench of this Court on 10.12.1996 in CWP No.6768 of 1996 and it was open to the petitioners therein to establish their claim in respect to their right to draw revised pension as per the pay-scale fixed for the employees of BBMB in appropriate proceedings in accordance with law. It was observed by coordinate Bench while deciding CWP No.19401 of 2011, that petitioners therein, as per the earlier judgment of 10.12.1996, had been held to be deemed to have retired from BBMB and their pension was required to be fixed with reference to the last pay drawn in BBMB. The said petitioners were directed to submit a detailed representation by giving comparative revised pay of retired BBMB employee and retired Punjab state employee and to apprise the competent authority to consider their grievance. The respondents were directed to take note of decision dated 10.12.1996 of the Division Bench in CWP No.6768 of 1996 about status of the petitioners to the effect that they have retired from service as BBMB employees. The requisite benefits, it is submitted, were afforded to the petitioners in CWP No.19401 of 2011.

Petitioner's claim which is similar to the one raised by Nirmal Singh and others was rejected by the respondent authorities on the ground that he was not a party to CWP No.19401 of 2011.

Learned counsel for the respondents do not deny that the petitioner

is similarly situated as the petitioners in CWP No.19401 of 2011.

Sole ground to reject the petitioner's claim is that he is not a party to the said writ petition. It has been held by the Hon'ble Supreme Court in **State of Uttar Pradesh & Ors. v. Arvind Kumar Srivastava & Ors, 2015 (1) SCC 347** that once a benefit has been afforded in principle to some of the employees and is not restricted to them, the respondent-authorities should afford the same benefit to all other similar situated employees and they should not be compelled to approach the court.

Keeping in view the facts and circumstances of the case, this writ petition is allowed and the impugned orders/communications dated 31.05.2019 (Annexure P1), 22.04.2019 (Annexure P2) and 18.07.2018 (Annexure P3) are set aside.

Respondents are directed to reconsider the petitioner's claim in the light of discussion as above as well as specific stand of the respondents that the petitioner is identically situated as the petitioners in CWP No.19401 of 2011 decided on 16.05.2016. Decision be taken thereon within two weeks from the date of receipt of certified copy of the order and benefits, as may be due to the petitioner, be released within two weeks thereafter.

March 02 , 2021.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No