

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

**CWP No. 18252 of 1996 (O&M)
Date of Decision:25.05.2022**

Dhan Raj

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.K.Malik, Sr. Advocate
with Mr. Sachmeet Singh Randhawa, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Addl.AG., Haryana.

LISA GILL, J(Oral).

Prayer in this writ petition is for directing the respondents to release the benefit of increments admissible to the petitioner in accordance with rules along with all arrears to which the petitioner is entitled with interest. There is a further prayer for release of salary of the petitioner for the period from 01.06.1994 to 05.12.1994 and from 06.12.1994 to 15.10.1996, during which period, the petitioner, it is stated was compulsorily kept out of job without any fault on his part.

It is pleaded that petitioner was appointed as a JBT teacher on 20.09.1963. However, petitioner since his initial appointment is in receipt of the minimum pay scale prescribed for the said post despite revision in the pay scales in the interregnum. It is stated that after 05.12.1994, petitioner was not allowed to continue in service and was ultimately allowed to join service pursuant to order dated 15.10.1996, however benefit of annual

increments since his initial appointment was not released. Hence the present writ petition was filed.

This writ petition was admitted by a Division Bench of this Court on 29.09.1997 while passing the following order:-

“The case of the petitioner is that he was not given his annual increments in the time scale right from his date of appointment, way back in the year 1963.

The stand of the learned counsel for the respondents, on the basis of the written statement, is that no service book of the petitioner was ever made which has been made now. In these circumstances, the learned counsel for the petitioner submits that the petitioner is entitled to entire arrears of pay right from day one, whereas the learned counsel for the respondents submits that the petitioner did not raise even his little finger when his annual increments were not being paid to him. In these circumstances at the most, the arrears can be confined only to a period of three years and two months prior to the date of filing of the writ petition.

We are of the opinion that this point and the ancillary points raised in the writ petition require consideration at length. Admitted. As an interim measure, let the arrears of the salary to the petitioner as calculated by the respondents be released to the petitioner confining the same to three years and two months prior to the date of the filing of the present writ petition i.e., 27.11.1996 and the pension be also calculated on the notional pay which the petitioner is deemed to have drawn on the date of his retirement. This will be, however, subject to the final order that may be passed in the writ petition. Let the interim directions be carried out within three months.”

Learned counsel for the petitioner does not deny that in terms of order dated 29.09.1997, arrears of the salary, after proper calculation, have been released to the petitioner, though confined to three years and two months prior to filing of the writ petition, and pension has also been

calculated on the notional pay which petitioner is deemed to have drawn on the date of his retirement. Petitioner is in receipt of the same.

As per the written statement, service book of the petitioner could not be prepared due to non-co-operative attitude of the petitioner. Original documents of his qualifications were demanded time and again from the petitioner by the various Drawing and Disbursing Officers (DDO's) of the petitioner. It is specifically stated in the written statement that petitioner in response to queries put to him replied that he had lost all the said certificates. Photostat copy of the original appointment letter of the petitioner which was produced, bears no signatures of the appointing authority. It is further stated that petitioner admitted in writing that he was absent from duty for the period in question without any reason. It is categorically stated that plaintiff had not submitted his case for extension properly within time and that petitioner had verbally requested respondent no.4 that his salary may not be withdrawn as if the extension was not granted as petitioner would not be in a position to repay the same. Reference is made to Rule 12.8 of CSR Vol. I, Part-I, to submit that it is the duty of the concerned employee to keep checking his service record from time to time.

It is noticed that there is no replication to the written statement filed on behalf of the respondents. Arrears of salary as calculated by the respondents have admittedly been released to the petitioner in terms of interim order dated 29.09.1997 passed in this writ petition. Pension so calculated on the basis of notional pay, has also been received by the petitioner.

In my considered opinion, petitioner is not entitled to the arrears on account of benefit of annual increments prior to three years and two months as already released to him. There is thus no scope for any further

relief being granted to the petitioner apart from the relief already afforded on 29.09.1997, which is made absolute.

Writ petition is accordingly disposed of.

25.05.2022

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.

[LISA GILL]

Judge