

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19057-1998 (O&M)

Date of decision :19.09.2022

M.C.Rao

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashok Aggarwal, Advocate
For the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to grant 'Special Pay' to the extent of Rs.500 instead of Rs.300/- from the date of appointment of the petitioner i.e. 08.05.1974.

2. I have heard learned counsel for the parties and gone through the case file.

3. What thus emerges is that as against the claim of the petitioner to accord him sanction of special pay of Rs.500/-, vide office order dated 17.09.1993 (Annexure P-5), the Administrative Secretary of the Haryana Civil Aviation Department instead accorded sanction of only Rs.300/- per month as 'Special pay' w.e.f. the date of his appointment. Said order was duly conveyed to the petitioner and accordingly his salary was calculated and paid thereafter.

4. Having accepted the same, it is much later after more than a year that a representation dated 27.10.1994 (Annexure P-6) was submitted by the petitioner once again making out his grievance that he ought to have been given Special pay of Rs.500 instead of Rs. 300/-. Thereafter, petitioner never approached any competent Court and/or this Court for more than 3 years and therefore on that

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ground alone writ petition is liable to be dismissed given the acquiescence of the petitioner by his own conduct. It is rather intriguing that once matter had since long attained quietus, however as a bolt from the blue petitioner received a letter dated 29.01.1998 (Annexure P-7) conveying that his abovementioned representation dated 27.10.1994 after due consideration had been rejected. However, this letter was not issued by the Administrative Secretary but by an Administrative officer for Advisor Civil Aviation, Haryana who does not appear to be the competent authority since the fixation of pay of Petitioner was done by the Chief Secretary. One does not know the reason as to how was the officer competent to consider the representation and/or pass any such orders of rejection of claim of the petitioner.

5. Be that as it may, even the said rejection does not extend the period of limitation since the same itself was way beyond the period of 3 years from the date of the order vide which the pay of the petitioner was originally fixed.

6. I am conscious that ordinarily limitation is not be applied strictly in writ jurisdiction but the same cannot be construed to mean that things which have long attained quietus can be reopened at any stage belatedly and therefore grievance if any, ought to be at least within a reasonable period.

7. Applying the yardstick of reasonable period, case of the petitioner fails thereto since he filed the instant writ petition after a lapse of 5 years from the date his pay was fixed and to be noted in the interregnum, he had retired on 30.06.1995. Even if calculated from the date of his retirement, writ petition was filed after a period of more than 3 and a half years.

8. As regards the claim of the petitioner seeking benefit of Administrative Instructions dated 11.01.1998 (Annexure P-9) issued by the Chief Secretary, and the admissibility of the balance of special pay of Rs.200/-, even otherwise, I find no irregularity, in view of the following stand taken in para nos.viii and ix of the written statement, which are reproduced hereinbelow:-

viii) *That as per government instructions any Officer/Official who wants to challenge the terms and conditions of his appointment then he can do so within six months time. If he fails to do so nothing can be heard by the competent authority and his request/appeal can be rejected without assigning any reason whereas the petitioner (Shri M.C.Rao) had challenged the terms and conditions of his appointment only on 27.04.1988 and that too after a gap of 14 years which is barred by time. However, the government was very lenient and re-examined the whole issue and granted him special pay of Rs. 300 per month vide sanction No.2/9/86-1CA dated 17.09.1993 with retrospective effect and arrears from 08.05.1974 to 25.04.1986 and 11.05.1990 to 30.06.1995 were paid by the answering respondent No.4 i.e. Adviser, Civil Aviation Haryana and the arrears from 26.04.1986 to 10.05.1990 were paid by M/s Delhi Flying Club Limited, New-Delhi for the period when he had remained on deputation with them as Chief Aircraft Engineer. It is a hard fact that the petitioner had virtually not maintained the VIPs aircraft w.e.f. 11.05.1984 to 30.06.1995 i.e. the date when he retired on attaining the age of superannuation due to his in-different attitude with air-crew members and the government and due to his inability the day to day maintenance of VIPs aircraft had been entrusted to outside agencies and thus the State Govt. has been incurring huge loss since then.*

ix) *That the sanctioned pay scale of the Chief Aircraft Engineer was 1800-100-2200 when the petitioner (Shri M.C.Rao) had joined on 08.05.1974 and the said scale was revised to Rs.2000-100-2400 w.e.f. 01.04.1979 and was further revised to 3700-125-4700-150-5000 w.e.f. 01.01.1986, for which he had given his option and get his pay re-fixed in those pay scales and he had never objected the same at any stage.*

9. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

10. Learned State counsel has canvassed arguments on similar lines as the stand taken in written statement.

11. In the parting, I may hasten to add here that petitioner has not even sought to quash order dated 17.09.1993 (Annexure P-5) vide which his pay was fixed and order dated 29.01.1998 (Annexure P-7) passed by the Advisor vide which his representation was rejected.

12. Even if prayer is to be overlooked, even in the body of the petition, it is nowhere pleaded that the abovementioned orders are not maintainable and it ought to be set aside, being illegal, on whichever ground.

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13. Be that as it may, I see no irregularity of any kind committed by the Department as to warrant any judicial intervention of this Court.
14. In view of the aforesaid, no grounds are made out to interfere.
15. Dismissed.

(ARUN MONGA)
JUDGE

September 19, 2022
Vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No