

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

CWP-2489-1998 (O&M)

Date of decision: April 27, 2022

Devender Kumar Gaur and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K.Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate,
For the petitioners.

Mr. Rajesh Gaur, Additional A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 1998, *inter alia*, for issuance of a writ in the nature of certiorari to quash the impugned order dated 17.12.1997 contained at Annexure P-6 to the extent that petitioners have been deprived arrears from the date their juniors have been promoted as 'Assistant'.

2. Succinct facts first. Petitioners were appointed as Clerks on *ad hoc* basis on different dates. Their services were regularized w.e.f. 01.10.1988. Thereafter, they were promoted as 'Assistant' with effect from 01.02.1996 when their juniors were promoted. On 17.12.1997, the Chief Secretary issued a direction that petitioners were not entitled to arrears of pay w.e.f. 01.02.1996. Hence, the instant petition.

3. Learned Senior counsel relies on the judgment rendered by this Court in ***CWP No.468 of 2012 dated 26.09.2012*** titled as ***"Suresh Kumar Vs. State of Punjab and another"***. Relevant para of the same is reproduced hereinbelow for ready reference:

“10. For the reasons mentioned above, I find merit in the present petition. It is established that the petitioner was denied promotion on the date when his juniors were promoted though the petitioner was also having same qualification. After he was granted promoted with retrospective effect in terms of the directions issued by this Court for consideration of his case, he cannot be denied benefit of arrears of salary. The impugned order dated 11.03.2010 communicated vide endorsement dated 16.04.2010 till 17.09.2008, is set aside. The respondents are directed to pay all consequential benefits to which the petitioner is entitled to on account of his promotion from back date. The arrears shall be payable for the period of 38 months prior to the date when the petitioner filed earlier petition raising a grievance about his non-promotion till the date he was actually promoted from retrospective effect. The arrears be calculated and paid within a period of four months from the date of receipt of copy of this order. Considering the peculiar facts situation in the State of Punjab where the employees are not even being paid their retiral dues for service/terminal benefits in time because of paucity of funds, I do not consider it appropriate at this stage to grant any interest to the petitioner though he may be entitled to, in normal circumstances. The petition stands disposed of.”

4. I am in respectful agreement with the view taken by my learned Brother, Rajesh Bindal, J. (as he then was in this Court). Applying the aforesaid judgment, claim of the petitioner qua grant of arrears (difference of pay) arising out of salary w.e.f. 01.02.1996 up to 16.05.1997 is just & fair and ought to be allowed.

5. Accordingly, respondents are directed to calculate the arrears of the petitioner and pay the same within a period of 3 months from today along with interest @ 6 % per annum to be calculated with effect from the due date till actual payment.

(ARUN MONGA)
JUDGE

April 27, 2022
vandana

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No