IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.207

CWP No.22482 of 2014
Date of Decision: 27.05.2022

Shashi Kumar Sharma @S.K.Sharma (since deceased) through his LRs .... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishav Sharma, Advocate for
Mr. D.R.Sharma, Advocate
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

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__HARSIMRAN SINGH SETHI, J. (ORAL)__

In the present petition, the grievance raised by the petitioner is that though the petitioner is being granted the pension by the respondent Corporation w.e.f. 01.04.2011 onwards, but the same is @ Rs.2326/- per month, which needs to be revised with effect from the date the petitioner was granted pension keeping in view the Circular issued by Government of Punjab. according to which, the minimum pension admissible to him can not be less than Rs.3500/- per month. The reliance to claim the said benefit is being placed by the petitioner on the basis of Finance Circular No.18 of 2009 issued by Government of Punjab on 17.08.2009, by which the recommendations of the 5th Pay Commission regarding pension and other retiral benefits were accepted.

Learned counsel for the petitioner argues that the respondent Corporation has also accepted the said recommendations, hence, keeping in view the clause 3.1 of the Finance Circular No.18 of 2009, minimum pension of Rs.3500/- per month is to be extended to the retired employee.

After notice of motion, the respondents have filed the reply wherein the respondents have stated that though, the Circular No.18 of 2009 has been accepted by the Corporation, but as the petitioner left the service of the Corporation in the year 1991 to join another institution, the petitioner can not be granted the benefit of the financial Circular of the year 2009. Though, it has been conceded before this Court that starting from 01.04.2011 onwards, the respondent Corporation is paying the pension to the petitioner regularly @ Rs.2326/- per month.

Learned State counsel submits that the State is proforma party only with regard to the issuance of the Finance Circular and the grievance of the petitioner is only with the Corporation, which authority is paying pension to the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, the payment of pension by the respondent Corporation to the petitioner w.e.f. 01.04.2011 is not disputed, the only question which arises is whether the petitioner is entitled for minimum pension @ Rs.3500/- per month on the said date or not. As of now, the petitioner is being paid the pension @Rs.2326 per month. After the acceptance of the recommendations of 5th Pay Commission, which were recommended by the Finance Circular No.18 of 2009, certain guidelines were given as to how the pension is to be fixed of the employee, who has already retired. Clause 3.1 reads as under:-

> *"Pension shall continue to be 50% of basic pay (plus NPA) it shall also continue to be calculated on the basis of last pay drawn or 10 months average whichever is beneficial to the employees subject to a minimum of Rs.3500/- per month."*

A bare perusal of the above clause would show that the petitioner is entitled for the pension which should be at least 50% of the basic pay in the pay scale which is granted to the post, which was held by the employee at the time of his retirement. The further rider is that the same can not be less than Rs.3500/- per month.

In the present case, the petitioner is only asking that his pension be increased from Rs.2326/- to Rs.3500/- per month, according to the said Circular which was in operation on the date when the petitioner was granted pension w.e.f. 01.04.2011. Learned counsel for the respondents have not been able to dispute the conditions of revising the pension and no valid justification has come as to why once, the Finance Circular No.18 of 2019 was in vogue, on the date when the petitioner was granted pension, still why the petitioner was given pension less than the minimum fixed pension. The fixing of the pension by the respondent Corporation @Rs.2326/- per month is contrary to the Finance Circular No.18 of 2009.

Keeping in view the above, the prayer of the petitioner as raised in the present petition that he is entitled for the minimum pension of Rs.3500/- starting from 01.04.2011, is allowed. Let the respondents fix the pension of the petitioner as Rs.3500/- per month starting from 01.04.2011 onwards and grant the petitioner the arrears within a period of two months from receipt of copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

27.05.2022
Maninder

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