

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.213

CWP No.27826 of 2017

Date of Decision: 08.07.2022

Om Parkash and another

.... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Daryal, Advocate
for the petitioners.

Mr. Kiranpal Singh, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

Prayer in the present petition is for the grant of one increment w.e.f. 01.01.2006 keeping in view the Haryana Civil Services (Revised Pay) Rules, 2008.

Learned counsel for the petitioners argues that the petitioners were appointed as conductors with the respondent department on 10.09.1969 and have retired on attaining the age of superannuation on 31.01.2006 and 31.03.2006 respectively, while working on the post of Inspector. At the time when the petitioners retired, the date of the grant of increment to the petitioners was in the month of May of that particular year, which benefit was not extended to the petitioners on the ground that before completing one year of service in the year of retirement i.e.2006, the petitioners had retired in January and March, 2006 respectively, hence, they were not eligible for the increment for the service which they had rendered from May, 2005 till January/March, 2006, as the case may be.

The State of Haryana revised the pay scale on 30.12.2008 but w.e.f. 01.01.2006. As per the revised rules issued in the year 2008, under Rule 10 of the said 2008 rules, the respondent revised the rule regarding the grant of increment. As per the revised rule, the increment was to be granted either in the month of January or July, as the case may be. In case, at the time of fixing the increment either in the month of January or July, an employee, who had rendered more than 6 months of service, will be granted the said benefit.

Keeping in view the said amendment, the petitioners raised the claim that as on 01.01.2006, keeping in view Rule 10 of the 2008 Rules, the petitioners had more than 6 months of service in their credit for the grant of increment, hence, they should have been given an increment on 01.01.2006 and thereafter, the pay of the petitioners should have been fixed for computing the pensionary benefits. The said benefit has not been granted to the petitioners, which had led to the filing of the present petition.

Upon notice of motion, the respondents though have conceded the amendment of the Rule in the year 2008, which has come into being w.e.f. 01.01.2006, according to which an employee who had more than 6 months of service as on 01.01.2006, was entitled for the grant of increment but submitted that as the petitioners were not in service on the date of promulgation of the rules, no benefit of the amendment as envisaged in Rule 10 of the 2008 Rules, can be given effect to in case of the petitioners.

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

It is a conceded position that the 2008 amendment revising the pay scale was brought into effect retrospectively w.e.f. 01.01.2006. That

being so, the same has to be notionally applied to all the employees who were in service on the said date. It is not the case of the respondents that keeping in view the said amendment, according to Rule 10 of the 2008 Rules, the petitioners were entitled for the grant of one increment as on 01.01.2006, keeping in view the fact that the last increment granted to them was in May, 2005 and the petitioners had more than 6 months of service as on 01.01.2006 for the grant of increment under 2008 Rules but only objection is that when 2008 Rules were published, petitioners had retired. The question is whether the benefit of 2008 Rules is only to be given to the employees who were in service in the year 2008 or the benefit is to be extended of 2008 Rules in respect of the employees, who were in service as on 01.01.2006.

By 2008 Rules, even the pay scales of the employees were revised. Learned State counsel has conceded that the benefit of revised scale was extended to the petitioners being in service. That being so, once a revised pay scale, which was also revised by the same notification issued in the year 2008, has been given effect to even in respect of the employees who were in service as on 01.01.2006, it can not be said that Rule 10 of the same rules is to be given effect to only in respect of the employees who were in service in December, 2008. Two different stands can not be taken for implementing the same set of rules. Hence, the claim of the petitioners is covered for the grant of increment as on 01.01.2006 in respect of the services rendered by them from May, 2005 onwards keeping in view Rule 10 of the 2008 Rules and the pay of the petitioners is to be revised accordingly.

Now, the question arises as to whether the petitioners are to be

granted the arrears in respect of the claim which has been allowed in their favour. The cause of action arose to the petitioners in the year 2008 when the rules were revised. The present petition has been filed in the year 2017, after approximately 9 years of the promulgation of the rules in question. No justifiable reason has come on record for the said delay.

Faced with this position, learned counsel for the petitioners submits that the petitioners will be agreeable in case the arrears in view of the revision of pensionary benefits is granted to them from the date of filing of the present petitioner i.e. 01.12.2017 onwards.

Keeping in view the above, the present writ petition is allowed in favour of the petitioners. The respondents are directed to grant one increment in respect of the services rendered by the petitioners from May, 2005 onwards till the year 2010, keeping in view Rule 10 of the 2008 Rules and refix their salary on the date of their respective retirements. Upon refixation of the salary, the respondents will also revise the pensionary benefits of the petitioners and the arrears, for which the petitioners will be entitled for, will only be granted starting from 01.12.2017 onwards

Let this order be complied with within a period of two months from the receipt of copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

08.07.2022
Maninder

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