

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

125

CWP No.20210 of 2022

Date of decision : 07.09.2022

Mrs. Charanjit Kaur and others

....Petitioners

V/s

Punjab Wakf Board and another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Arvind Galav, Advocate for the petitioners.

VIKAS SURI, J. (Oral)

Learned counsel *inter alia* contends that the petitioners were paid terminal benefits in terms of the adjudication in CWP No.8786 of 2013 decided on 24.09.2016 (Annexure P-1), declaring the teachers regular employees of the Wakf Board. Accordingly, teachers like the petitioners who were not petitioners in the aforesaid writ petition and irrespective of the fact whether those teachers had approached the writ Court or not, death-cum-retirement gratuity and leave encashment was released to them in the year 2018. However, the claim for interest on delayed payment of arrears is still pending. Learned counsel submits that their entire service has also not been taken into reckoning for calculating the amount payable towards gratuity and leave encashment. The entire past service prior to taking over the schools was also to be counted towards qualifying service.

It is further submitted that the petitioners have retired during the period 2007 to 2016 and there has also been revision of pay scales w.e.f. 01.01.2006, consequent to implementation of the recommendations of the 5th Pay Commission. On account of the said pay revision, the terminal benefits of the petitioners is also required to be accordingly revised and the

delay occurring in doing that is also resulting in monetary loss to the petitioners, which is a continuing cause of action and as such the plea of delay and laches would not be attracted in this case. Besides the above, enhancement of gratuity from ₹3.5 lacs to ₹10 lacs w.e.f. 01.01.2006, was also notified by the Government of Punjab and benefit of the same be also extended by holding the cut-off date to be arbitrary and illegal.

Learned counsel would further submit that the petitioners have been approaching the respondents but to no avail and they have jointly also served legal notice dated 01.07.2020 (Annexure P-10), which is still pending consideration with the respondents.

Learned counsel, on instructions from the petitioners, submits that the petitioners would be satisfied, at this stage, if their prayer in alternate is considered first and this petition is disposed of with a direction to the respondents to consider and decide the aforesaid legal notice by passing a speaking order within some stipulated time.

This Court is inclined to grant the aforesaid prayer in alternate, keeping in view the alleged recurring loss of terminal benefits to the petitioners, if any and also for the fact that the Board would have to go into the service records of each of the 7 petitioners separately and determine their eligibility or otherwise and thereafter, consider the matter of revision of terminal benefits. For the innocuous limited prayer, only seeking consideration and decision of the legal notice, within some stipulated time, in accordance with law, notice to the respondents at this stage may not be necessary to burden them with an additional matter. Moreover, the petition is not being disposed of on merits.

Without going into the merits of the case or the claim being made by the petitioners in the present petition or in the legal notice, respondent No.2 is directed to consider and decide the legal notice dated 01.07.2020 (Annexure P-10) in accordance with law, by passing a speaking order within a period of four months from the date of receipt of certified copy of this order.

Needless to observe that in case, after the decision, petitioners are found entitled for any benefits, the same be also extended to them within a period of six weeks thereafter, as per law.

The petition stands disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 07, 2022
Ajay/Kapil

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No