

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

CWP No.23551 of 2019 O&M)
Date of Decision.20.12.2022

Raj Kumar Mahajan

...Petitioner

Vs

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. O.P. Sharma, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Rajinder Sharma, Advocate
for respondent No.4.

-.-

JAISHREE THAKUR J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India with a prayer that an appropriate writ, order or direction be issued especially in the nature of certiorari for setting aside the communication/letter dated 02.08.2018 (Annexure P-9) vide which claim of the petitioner to restore pay scale from Rs.4400-7000 to Rs.5000-8100 w.e.f. 11.03.1996 with all consequential benefits in terms of judgment dated 16.05.2012 (Annexure P-4) passed by this Court and judgment dated 07.01.2015 passed by the Hon'ble Supreme Court, has been declined.

Learned counsel appearing for the petitioner herein would urge that the petitioner had joined respondent-College on 11.03.1986 as Clerk in the pay scale of Rs.400-600, which was revised to Rs.950-1800/- with initial starting of Rs.1000/- per month. Later on w.e.f. 11.03.1991, the petitioner was placed as Senior Clerk in the pay scale of Rs.1200-2100/- with initial pay of Rs.1200/- per month and as Junior Assistant in the pay scale of

Rs.1500-2640/- with initial pay of Rs.1500/- per month, which further stood revised to Rs.5000-8100/- w.e.f. 11.03.1996. However, vide notification dated 19.05.1998, pay scale of the official works as Senior Clerk and Junior Assistant as on 01.01.1996 was protected as a measure personal to them and total number of posts of Clerk including Senior Clerk and Junior Assistant in a cadre existing as on 01.01.1996 were divided into posts of Clerk in the pay scale of Rs.3120-5160/- and Junior Assistant in the pay scale of Rs.4400-7000/-. Since the petitioner was placed as Junior Assistant on 11.03.1996, respondent-department vide letter dated 11.08.1998 changed the pay scale of the petitioner from Rs.5000-8100/- to Rs.4400-7000/- w.e.f. 11.03.1996, in view of the notification dated 19.05.1998. Aggrieved against the aforesaid notification, certain employees approached this Court vide CWP No.22422 of 2010, which was allowed vide judgment dated 16.05.2022. Intra-court Appeal i.e. LPA No.1729 of 2012 filed against the judgment dated 16.05.2022 also stood dismissed vide judgment dated 07.01.2015. SLP (C) No.21590 of 2014 preferred before the Hon'ble Supreme Court also met with the fate of dismissal. Therefore, in view of the aforesaid judgments, petitioner is entitled to be restored in the pay scale of Rs.5000-8100/-. In this regard, a representation was made to respondent No.4, which was forwarded to respondent No.3 but instead of acceding to the prayer made by the petitioner for restoration of his pay scale to Rs.5000-8100/-, same was rejected by respondent No.3 by passing the impugned order dated 02.08.2018. Hence, the writ petition.

3. Learned counsel appearing for the petitioner would argue that case of the petitioner is squarely covered by the judgment passed by this Court in CWP No.22422 of 2010 titled as *Anil Kumar and others Vs. State*

of Punjab and others decided on 16.05.2022 and LPA No.1729 of 2012 titled as *State of Punjab and others Vs. Anil Kumar and others* decided on 05.02.2014, which stood upheld by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.21590 of 2014 decided on 07.01.2015. Pay of the petitioners therein, who were in service on 01.01.1996 was protected and therefore, being similarly situated, petitioner is also entitled to the similar relief.

4. Learned counsel appearing for the respondent-State would submit that as per notification dated 19.05.1998 designation and revised equivalent of the unrevised pay scale of only those officials was protected, who were working as Senior Clerk and Junior Assistant as on 01.01.1996 and since, the petitioner was placed as Junior Assistant on 11.03.1996, he would not be entitled for the said relief.

5. I have heard learned counsel for the parties and have perused the paper book. The petitioners in CWP No.22422 of 2010 were also appointed/placed in the cadre of Junior Assistant after 01.01.1996 and the Single Bench vide judgment dated 16.05.2012 held that once the petitioners were in office on 01.01.1996, they would be entitled to the protection of their pay. The said judgment was challenged by the respondent-State in intra court appeal bearing LPA No.1729 of 2012 wherein the Division Bench vide judgment dated 05.02.2014, while upholding the finding rendered by the Single Bench, restricted the fixation of notional pay and arrears to 38 months prior to the date of filing the writ petition, considering the fact that private respondents approached the Court after lapse of long time. The judgment dated 05.02.2014 passed by the Division Bench was also upheld by the Hon'ble Supreme Court.

6. Keeping in view the aforesaid facts and circumstances, the petitioner herein shall also be entitled to protection of pay sale of Rs.5000-8100 w.e.f. 11.03.1996, however, his right to fixation of notional pay and arrears shall be restricted to 38 months prior to the date of filing of the writ petition. To the above, no objection has been raised by the petitioner.

7. Consequently, the order dated 02.08.2018 is set aside and the instant writ petition stands disposed of in above terms.

(JAISHREE THAKUR)
JUDGE

December 20, 2022

Pankaj*

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