

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103+245)

CWP No. 21603 of 2020 (O&M)
Date of Decision : 27.04.2022

Avtar Singh and others

...Petitioners

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amrik Singh, Advocate for the petitioners.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-16682-CWP-2021

Present application has been filed for placing on record replication to the written statement filed on behalf of respondents No. 1, 3 and 4.

Application is allowed and replication to the written statement filed on behalf of respondents No. 1, 3 and 4 is taken on record.

CWP No. 21603 of 2020

The present petition has been filed for quashing of the memo dated 29.04.2010 (Annexure P-5).

Learned counsel for the petitioners argues that in the present case, claim of the petitioners is squarely governed in their favour keeping in

view the judgment passed by a co-ordinate Bench of this Court in **CWP-**

16446-2010 titled as ***“Jaswinder Singh Bedi and others Vs. State of Punjab and others”***, decided on 20.05.2013, but still prayer of the petitioners for grant of the same relief to them has been declined by the respondents without any valid justification. Learned counsel submits that prayer made in the present petition is that the respondent-State had declined the grant of benefit of Assured Career Progression (ACP) Scheme to the category of Junior Engineers/Assistant Engineers, who were working with the respondent/State on completion of 4/9 and 14 years of service. The said non-grant of the benefit was challenged in the aforementioned CWP-16446-2010 and the said writ petition was decided holding that the junior engineers are also entitled for the grant of the ACP Scheme on completion of 4/9 and 14 years of service and the said judgment has already attained finality, therefore, as the present petitioners are similarly situated as the petitioners in the said CWP-16446-2010, they are also entitled for the benefit of the said judgment.

Upon notice of motion, the respondents have filed a reply wherein though nothing has been mentioned that the petitioners are not similarly situated as the petitioners in the said CWP-16446-2010 but only stance taken by the respondents is that the judgment passed in the aforementioned CWP-16446-2010 can only be implemented qua the petitioners therein and not to all, who are similarly situated, therefore, the petitioners here cannot raise the claim for the grant of benefit keeping in view the order passed by this Court in **Jaswinder Singh Bedi's case** (supra).

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

The question of law which has been raised before this Court is whether once a benefit has been extended to a category of employees, the same has to be extended to all, who are similarly situated, or everyone needs to approach the Court time and again for the grant of the same benefit. This question is no longer *res integra* keeping in view the judgment passed by a Division Bench of this Court in “Satbir Singh Vs. State of Haryana”, 2002 (2) S.C.T. 354, wherein it has been held that once a question of law has been adjudicated by a competent Court of law, the benefit of the said adjudication is to be extended to all the similarly situated employees without forcing each and everyone to approach to the Court to claim the same relief. Rather the Hon'ble Division Bench has held that on being a welfare State, the State should not force everyone to approach the Court and the said relief should be made applicable to all. The relevant paragraph of the said judgment is as follows:-

“ -- x -- x --

..... When judgments attain finality to which the State is a party, duty is casted upon the State to grant relief to its employees who are similarly situated and on identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is on necessary for the State to require each one of its employees to approach the Courts of law for grant of a same relief which the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years ow. By referring to few judgments we would only predicate the

*principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of **Dr. (Mrs.) Santosh Kumari v. Union of India and others, JT 1994(7) SC 565 : 1995(1) SCT 527 (SC)** the Hon'ble Apex Court held as under:-*

“The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The matter is one of principle and should not depend upon who comes to the court. A more deserving candidate may not have the means of approach the Court.”

-- x -- x --”

Keeping in view the above, once it is not being disputed that the petitioners in the present petition are similarly situated as the petitioners in **Jaswinder Singh Bedi's case** (supra), the benefit as extended to the petitioners therein cannot be denied to the present petitioners, especially in view of the law settled by the Hon'ble Division Bench in **Satbir Singh's case** (supra).

In view of the above, the claim of the petitioner is allowed in terms of the order passed by a co-ordinate Bench in **Jaswinder Singh Bedi's case** (supra), i.e. CWP-16446-2010, decided on 20.05.2013.

April 27, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No