

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

CWP-4068-2018

Date of decision: 21.02.2022

Paramjeet Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Khurana, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab
for the official respondents-State.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The facts of the present Civil Writ petition by virtue of Article 226/227 of the Constitution of India in the nature of *certiorari* seeking quashing of orders dated 17.07.2017 (Annexure P-1) fall within the narrow compass to the effect which are reproduced as below:-

Paramjit Singh, petitioner was initially appointed as a Clerk on 07.05.1977 with the respondents and upon his promotion as Senior Assistant joined his duties on 17.05.1999. It is subsequent thereto, he was promoted as Superintendent, Grade-I on 08.10.2015 from where he has retired on 31.10.2017. It is during the course of discharge of his duties, the petitioner was found guilty of embezzlement and vide order No.1743/Estb.: vide order dated 30.07.1991 (Annexure P-2) he was awarded punishment whereby his pay scale was ordered to be reduced for 05 years and which was to be completed on 30.07.1996. The petitioner before completion of this punishment was again found guilty for embezzlement and vide order No.97 was dismissed from service with effect from 22.03.1995. It is subsequent thereto in departmental remedy available to him the Commissioner reviewed the order of punishment and modified the same vide his order dated 05.02.1996 (Annexure P-3), whereby, this pay scale was again reduced for a period of 05 years. The second punishment was to be completed on 05.02.2001. A representation was made by the petitioner for re-fixation of his pay and vide order No. 1511/Estt. dated 17.07.2021 (Annexure P-1), the same was rejected and that is precisely the subject matter of dispute before this

Court. The claim of the petitioner that he has not been given the pay scale to which he was entitled to after completion of his punishments and there is no award of increments to which he is entitled. The same has been rightly controverted by the respondents-State who has sought to place reliance on order No.174/Estt. dated 09.08.1991 and order No.50/Estt. dated 11.03.1996 to drive home the point that the petitioner was not entitled to five increments after completion of five years of punishment on the basis of the first punishment and before completion of first punishment, he was awarded punishment of dismissal of service which was subsequently reduced by the Commissioner, Ferozepur Division, on review whereby the pay scale of the petitioner was reduced to the lower pay scale of 1800-3200. Learned counsel for the petitioner could not controvert the submissions so raised by the State counsel from the date of the first punishment till completion of the second punishment, the petitioner certainly is not entitled to any increment.

What is highlighted that by some inadvertence or machination the petitioner has managed to get increments immediately upon completion of first punishment when second punishment has already come into play and, therefore, this fixation

of pay scale was wrongly and illegally done which needs to be held so. Thus, in light of what has been highlighted from the records, it is upon completion of second punishment on 05.02.2001, the pay of the petitioner has to be notionally fixed and in between he is not entitled to any increment as claimed by him and it is subsequent thereto, his pay scale shall be governed under the rules. Moreover, grant of increment is by way of extra promotion by the employer to prod the employee for increasing efficiency of the service and is not as a matter of legal right where the employee is found repeatedly guilty of serious misconduct and acts of malfeasance.

In light of the foregoing discussions, there is no merit in the present writ petition and, thus, the same stands dismissed.

21.02.2022

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**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No