

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-32156-2018

Date of decision: March 28, 2022

Ashwani Kumar

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present: Mr. Deepak Agnihotri, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is *qua* alleged wrong fixation of his pay as on 21.12.2001 when he was taken back in service pursuant to the judgment and decree passed in a Civil Suit, which attained finality vide the second appeal preferred before this Court whereby same was upheld along with the judgment and decree dated 09.11.2004 passed by the first Appellate Court.

2. In the return filed by the respondents, details of his pay benefit along with back-wages and annual increment have been given vide Annexure R-2. For ready reference, the same is reproduced below:-

“Reference Director General, State Transport, Haryana Chandigarh order Endst. No.3941-44 EA4/E1 dated 2.3.2012. On his reinstatement with continuous in service & with back wages with effect the date of acquitted in criminal case i.e. 21.12.2001 the pay of Shri Ashwani Kumar Clerk is hereby fixed as under:-

<i>S. N.</i>	<i>Date</i>	<i>Existing Pay scale</i>	<i>Pay</i>	<i>Pay fixed</i>	<i>Remarks</i>
<i>1.</i>	<i>1.11.90</i>	<i>950-1500</i>	<i>1030/ -</i>	<i>1030/-</i>	<i>Already drawn</i>
<i>2.</i>	<i>1.11.91</i>	<i>-do-</i>	<i>1030/</i>	<i>1050/-</i>	<i>Annual</i>

			-		<i>increment</i>
3.	21.12.2001	3050-4590	--	3275/-	<i>Pay fixed from the date of acquitted in criminal case i.e. 21.12.2001</i>
4.	1.12.2002	-do-	--	3350/-	<i>Annual increment</i>
5.	1.12.2003	-do-	--	3425/-	-do-
6.	1.12.2004	-do-	--	3500/-	-do-
7.	1.12.2005	-do-	--	3575/-	-do-
8.	1.1.2006	5200-20200+1900	--	6650+1900 = 8550/-	<i>Pay fixed in revised scale</i>
9.	1.7.2006	-do-	--	6650+260+1900 = 8810/-	<i>Annual increment</i>
10.	1.7.2007	-do-	--	6910+270+1900 = 9080/-	<i>increment</i>
11.	1.7.2008	-do-	--	7180+280+1900 = 9360/-	<i>increment</i>
12.	1.7.2009	-do-	--	7460+280+1900 = 9640/-	-do-
13.	1.7.2010	-do-	--	7740+290+1900 = 9930/-	-do-
14.	1.7.2011	-do-	--	8030+300+1900 = 10230/-	<i>increment</i>
15.	6.3.2012	-do-	--	8030+300+1900 = 10230/-	<i>Join duty on dated 6.3.2012"</i>

3. In course of hearing, on a Court query, learned counsel for the petitioner concedes that petitioner has indeed been paid all the back-wages and as well as the increment as aforesaid. To that extent, claim of the petitioner stands satisfied and no grounds to interfere are made out.

4. As regards the contention of the learned counsel for the petitioner that he ought to have been given the benefit of period from 1991 to

2001 when he remained out of job, giving him notional benefits of the increment which would have been granted, if he were in service, is not sustainable. Admittedly, petitioner was ordered to be re-inducted from the date of his acquittal and while passing the said order, there is no mention with regard to the grant of consequential benefits including the notional fixation of pay for the period he remained out of job. Once the salary for the period he remained out of job has been denied to the petitioner, it does not lie in his mouth to claim annual increment on the salary which itself was not paid.

5. No grounds to interfere are made out since the back-wages along with increment from the year 2001 onwards have already been paid as stated aforesaid.

6. Dismissed.

(ARUN MONGA)
JUDGE

March 28, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No