

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

CR-7723-2019 (O&M)

Date of decision: 05.09.2022

Tarwinder Kumar

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K.Arora, Advocate for the petitioner

Mr. Sandeep Chopra, DAG, Punjab

ANIL KSHETARPAL, J (Oral)

The petitioner assails the correctness of the order dated 13.09.2019 passed by the Civil Judge, Junior Division, Patiala, in an execution petition. The petitioner was working as a Constable in the Punjab Police. He was dismissed from the service on 06.01.1994. However, he was taken back in service on 16.04.2003. He filed a suit for declaration to the effect that he was entitled to the benefits. The Regular Second Appeal (RSA-3300-2016) filed by the petitioner was allowed on 23.02.2018. The operative part of the order reads as under:-

“Hence, appellant is entitled to notional benefits for the intervening period from the date of dismissal till reinstatement like seniority, increments and re-fixation of pay from time to time. It is to be noted that Director General of Police being head of the Police Unit in the State, he must have had the knowledge of entertaining representation against a dismissal order. Perusal of communication dated 24.03.2003, there is not even a reference to the appeal or second appeal decided against the appellant. In view of the lapses on the part of the respondent-Police Department in not looking into the statutory provision and the fact that there is inordinate delay to take any further action either on the appellant or on the then Director General of

Police, therefore, in order to give quietus to the litigation, appellant is entitled to notional benefits of increments pay fixation and seniority. These service benefits shall be extended to the appellant within a period of 6 months from today.

Appeal stands disposed of.”

Learned counsel representing the petitioner contends that the Executing Court has wrongly held that the decree in favour of the petitioner stands satisfied. He submits that the consequential benefit of seniority and arrears have not been given to the petitioner.

On the other hand, learned counsel representing the State of Punjab submits that the petitioner is being paid salary from the date of his reinstatement i.e 16.04.2003, after counting his seniority and he now stands promoted as the Assistant Sub Inspector (ASI).

It is evident from the reading of the judgment dated 23.02.2018 that the petitioner was held entitled to notional benefits of increments, pay fixation and seniority. He was not required to be given the benefit of actual pay from 1994 to 2003. The remaining benefits are stated to have been paid. In any case, the revision petition is disposed of while granting liberty to the petitioner to file a representation in this regard, which shall be decided by the State of Punjab-respondents, within a period of one month, from the date of receipt of the representation.

All the pending miscellaneous applications, if any, are also disposed of.

05.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE