

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 696 of 2023

Date of Decision: 13.01.2023

Punnu Ram

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. N.K.Nagar, Advocate
for the petitioner(s).

Mr. Inderpreet Singh Kang, Assistant Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. Through this writ petition, the petitioner prays for the following substantive relief:-

“i) Count the period of service from 21.09.74 to 02.05.1977 for the grant of proficiency step ups and anti-date grant of ACP benefits from due earlier period after completion of 8/16/24 and 32 years with all other resultant benefits viz. refixation of correct pay, pension and all other retrial dues along with arrears.

ii) Anti-date proficiency steps up/ACP in lieu of a service of 18 years to that after 16 years' service in accordance with the mandate of para 3© of scheme (Annexure P-2 dated 25th Sep. 1998).

iii) Alternatively Grant him benefits in lieu of 24 years'

service from 01.04.2001 instead of 01.04.2002 ignoring uncommunicated average reports for the period 1998-99 and 1999-2000.

iv) Alternatively Grant him benefits in lieu of 32 years of service from 01.04.2009 instead of 01.04.2010.

v) Refix his correct pay, pension and all other retrial dues along with arrears in respect of preceding sub-paras i) to iv) along with payment of interest @12% AM p.a. from the dates it became due.”

2. After having been appointed as a Driver, the petitioner retired from the service on 31.12.2011. The petitioner, after a passage of more than 11 years, has filed the present writ petition.

3. The learned counsel representing the petitioner relies upon the Full Bench judgement passed in ***Saroj Kumari v. State of Punjab 1998(3) PLR 123***. He has read over para No.9 of the said judgement, which reads as under:-

“9. After hearing learned Counsel for the parties on this point we are of the view that in case where a person invokes the jurisdiction of this Court under Article 226 of the Constitution of India for fixation of his pay under relevant rules/instructions or even on the basis of a judgment of a competent Court, the question of delay and laches would not come in as it would be a case of a continuing wrong and every month the person is paid the salary which according to him is not in accordance with the relevant rules and instructions a fresh cause of action would

arise every month. Such a case is not a case of one time action like the case of termination or dismissal from service. As observed by the Apex Court in M. R. Gupta's case (supra) that the Court while granting relief regarding the payment of arrears may apply law of limitation. Since a Civil Suit would be maintainable for realizing arrears of three years and two months, the writ Court would be justified in restricting the payment of arrears to three years and two months prior to the filing of the writ petition."

4. The Hon'ble Full Bench of this Court has concluded that payment of less salary for each month gives rise to a fresh cause of action. In the present case, the petitioner has not received any salary after having attained the age of superannuation in the year 2011. Hence, the Full Bench judgement passed in *Saroj Kumari's case* (supra) would not come to rescue of the petitioner. The petitioner has failed to explain the colossal delay of 11 years in filing the petition.

5. Keeping in view the aforesaid facts, no ground is made out to issue a writ. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

January 13, 2023
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No