

**CM-8479-CWP-2023 & CM-8482-CWP-2023 in/and
CWP-4645-2021 (O&M) 1 2023:PHHC:151433
IN THE HIGH COURT OF PUNJAB AND HARYANA AT**

CHANDIGARH

102+242

**CM-8479-CWP-2023 &
CM-8482-CWP-2023 in/and
CWP-4645-2021 (O&M)
Decided on : 29.11.2023**

Maya Ram

. . .Petitioner

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Mr. Dharminder Singh Rawat, Advocate for respondent No. 2

HARSIMRAN SINGH SETHI, J. (Oral)

CM-8482-CWP-2023

Prayer in the present application is for exempting respondent No. 2 from depositing Rs. 5,000/- as cost which was imposed upon respondent No. 2 vide order dated 30.11.2022 passed by co-ordinate Bench of this Court.

Learned counsel for the applicant-petitioner submits that the present application may kindly be disposed of having been not pressed with liberty to the petitioner to file an application seeking review of the order dated 30.11.2022 passed by Co-ordinate Bench of this Court.

Ordered accordingly.

CM-8482-CWP-2023

Prayer in the present application is for placing on record the written statement filed on behalf of respondent No. 2.

Allowed as prayed for.

CWP-4645-2021

1. In the present petition, the grievance of the petitioner is that the petitioner, who was working on the post of the superintendent was entitled for the pay scale of Pay Band-2 with grade pay of Rs. 5400 keeping in view notification of the Government of Haryana dated 06.01.2010, copy of which has been appended as Annexure P-1.

2. Learned counsel for the petitioner argues that for the post of superintendent, the superintendent who had four years of regular satisfactory service are to be placed in a pay scale of Pay Band-2 with grade pay of Rs. 5400 which benefit was not extended to the petitioner despite the fact that petitioner has already completed a period of four years while in service before his retirement. Learned counsel for the petitioner submits that as the petitioner was promoted to the post of Superintendent on 16.10.2008, on expiry of four years service i.e. on 15.10.2012, the petitioner became entitled for the grant of benefit of pay scale of Pay Band-2 with grade pay of Rs. 5400 hence, the respondents are under an obligation to grant the said benefit by refixing the salary of the petitioner as well as all the consequential benefits which the petitioner will be entitled for, as the petitioner has already retired on attaining the age of superannuation on 30.04.2020.

3. Learned counsel for the petitioner further submits that in the year 2018, the petitioner was granted the said benefit by the respondents-themselves but the said order was not implemented by the respondents till the retirement of the petitioner that being so, even as per the respondents, the petitioner was entitled for the grant of benefit of Pay Band-2 with grade pay of Rs. 5400 though, upto the retirement of the petitioner, the said order was not implemented.

4. Learned counsel for the respondents-State contest the claim of the petitioner on the ground that for the grant of pay scale of Pay Band-2 with grade pay of Rs. 5400, a superintendent should not have simple four years service but have four years of Regular Satisfactory Service whereas, in the present case, service of the petitioner is not satisfactory keeping in view various observations made in the Annual Confidential Report of the petitioner.

5. I have heard learned counsel for the parties and have gone through the record of the file with their able assistance.

It is a conceded fact that in case a superintendent has four years of regular satisfactory service, he/she is entitled for the pay scale of Pay Band-2 with grade pay of Rs. 5400. The question which arises is that as to whether in the facts and circumstances of the present case, it can be said that the petitioner had regular satisfactory service of four years so as to get the said benefit of PB-2 with grade pay 5400.

6. Learned counsel for the respondents submits that as the petitioner was promoted in the year 2008 as Superintendent, his Annual Confidential Report starting from the year 2009/10 onwards are to be seen for adjudging the four years regular satisfactory service of the petitioner. Learned counsel for the respondents conceded the facts that the except for the Annual Confidential Reports for the period of 2011-12 which is below average, rest of the Annual Confidential Reports of the petitioner, the petitioner had been adjudged as a good employee though the remarks were recorded "not recommended for the promotion" in one of the Annual Confidential Report.

7. From the pleadings, which has come on record it is clear that except for the year 2011-12, all the other ACRs of the petitioner are good

that being so, once the petitioner has been over all adjudged as a good employee, it cannot be said that the petitioner did not had four years of regular Satisfactory service. Even if, the Annual Confidential Report for the year 2011-12 is taken into consideration then also from the year 2013 onwards the petitioner will be entitled for the pay scale of **Pay Band-2 with grade pay of Rs. 5400** as by the said year, the petitioner had four good reports in his Annual Confidential record. That being so, the petitioner is held entitled for the grant of **Pay Band-2 with grade pay of Rs. 5400** starting from 15.10.2013 onwards as the petitioner had four good reports so as to qualify as per the definition of '*Four years Regular Satisfactory Service*' .

8. The present petition is allowed in terms that the petitioner is to be granted the benefit of **PB-2 with grade pay 5400** w.e.f 15.10.2013 onwards till he retires.

9. The arrears of the salary for which the petitioner becomes entitled for be also calculated and released to the petitioner within a period of two months from the date of receipt of certified copy of this order.

10 If the petitioner is entitled for revision of the pensionary benefits by the grant of said benefit of **Pay Band-2 with grade pay of Rs. 5400**, the same will also be extended to the petitioner alongwith arrears within the aforesaid period of two months.

11. As it is a conceded position that the petitioner was granted the benefit of **Pay Band-2 with grade pay of Rs. 5400** in the year 2018 by the respondents themselves but the said order was not implemented, keeping in view the judgment passed by the Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, wherein it is held that an employee will be entitled for the interest on an amount which has

been retained by the respondents without any valid justification. The relevant paragraph of J.S. Cheema's case (supra) is as under: -

“In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

12. Keeping in view the above, the arrears which the petitioner is found entitled for, will also carry interest @ 6% per annum from the date the said amount accrued till the actual release of the same.

13. The said amount of arrears alongiwth interest will also be calculated and paid within a period of aforesaid two months from the date of reciept of certified copy of this order.

14. The present petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

29.11.2023
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No