

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-1865-CWP-2023 and
CM-18894-CWP-2022 in/and
CWP-13127-2021 (O&M)
Date of Decision: 23.02.2023

JAGDISH RAI MAKKARPetitioner

V/s.

STATE OF HARYANA AND OTHERSRespondents

CORAM: **HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO.**
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Ms. Anju Arora, Advocate
for the applicant-petitioner
in *CM-18894-CWP-2022*.

Mr. Hitesh Pandit, Addl. A.G., Haryana.
for the applicant-respondent
in *CM-1865-CWP-2023*.

M.S. RAMACHANDRA RAO, J. (Oral)
CM-1865-CWP-2023

This application is filed by respondent-State for placing on
record documents Annexures R-A & R-B.

Notice in the application.

Ms. Anju Arora, Advocate accepts notice in the application on
behalf of the petitioner, and stated that she has no objection if this
application is allowed.

Having regard to the averments made in the application, and in
view of the statement made by counsel for the petitioner, this application is
allowed, and the documents Annexures R-A and R-B are taken on record.

CWP-13127-2021 (O&M)

The petitioner was an employee of the erstwhile Haryana State Electricity Board, and was removed from service on 12.02.1999. This order was also upheld in the departmental Appeal. The petitioner then challenged the order of punishment in CWP-10892-2002 which was partly allowed on 29.01.2006 by this Court, and the matter was remitted back on the question of quantum by punishment imposed upon him.

Thereafter, an order was passed on 03.07.2006 converting the order of removal into one of compulsory retirement, but granting him pensionary benefits only from that date i.e. 03.07.2006.

The petitioner challenged the same in CWP-3595-2007 before this Court and sought quashing of the said condition imposed in the order of compulsory retirement that the petitioner would be entitled for the pensionary benefits only from the date of passing of the order dt.03.07.2006, and not from the order of the compulsory retirement on 12.02.1999. The said Writ Petition was allowed on 28.05.2009, and the said condition was quashed, and the respondents were directed to release all retiral benefits to the petitioner w.e.f.12.02.1999 to 30.07.2006 with interest @ 9% per annum within three months.

In the meantime, Office Memorandum No. 2/23/2016-1-Pension dt.10.01.2018 came into effect, and as per the same, revision of pension of all pensioners was provided, but in Clause (vii) thereof, the said benefit was not extended to those pensioners who were drawing compulsory retirement pension under the Haryana Civil Service Pension Rules, 2016.

Basing on the said Clause (vii) of the said Office Memorandum dt.10.01.2018, impugned order was passed on 08.01.2021 denying to the petitioner revision of pension, and holding that he would continue to be entitled to the revised pension in accordance with the provisions contained in the Haryana Civil Services (Revised Pension) Part-I Rules, 2017.

Assailing the said order dt.08.01.2021 and Clause (vii) of the Office Memorandum dt.10.01.2018, this Writ Petition was filed.

Subsequent to the filing of this Writ Petition, vide Office Memo No.2/23/2016-Pension(FD) dt.27.10.2022, a clarification was issued deleting Clause (vii) of the Office Memo.dt.10.01.2018.

Subsequent thereto a letter was issued to the petitioner by the Senior Accounts Officer, HVPNL, Panchkula asking the petitioner to withdraw the case, and also to give an undertaking that he would not claim interest on the arrears of the revised pension which shall become due after fixing the revised pension w.e.f 01.01.2016.

The petitioner also accepted the same, and gave an affidavit dt.12.12.2022 (Annexure R-B) giving-up his claim for interest.

In this view of the matter, this Writ Petition is allowed, respondents are directed to pay to the petitioner the arrears of pension pursuant to the Office Memo. dt.10.01.2018, and the revised Pension Payment Order be issued to that effect to the petitioner within two weeks from today.

It is clarified that no interest is liable to be paid on the arrears which are payable to the petitioner.

Pending application(s), if any, shall also stands disposed of.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 23, 2023
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>