

CM-6651-CWP-2023 in/and CWP-22734-2018 2023:PHHC:141562

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

(104+220)

**CM-6651-CWP-2023 in/and
CWP-22734-2018**

Date of Decision : November 07, 2023

Bal Singh Verma

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jawahar Lal Goyal, Advocate and
Mr. Parth Goyal, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-6651-CWP-2023

Present application has been filed for impleading legal representatives of the petitioner, who unfortunately died on 14.05.2021, during the pendency of the writ petition.

Notice of the application to the counsel opposite.

Mr. Saurabh Mohunta, learned Deputy Advocate General, Haryana, accepts notice on behalf of the respondent-State. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Legal representatives of the petitioner, the details of whom are given in para 2 of the application, are allowed to be impleaded in the present writ petition and the amended memo of parties attached with the present application is taken on record.

CWP-22734-2018

1. In the present writ petition, the claim of the petitioner is that the petitioner was not granted the benefit of two increments for the year 1999 & 2000, which were granted to the junior of the petitioner namely Sh. Darshan Lal Bhalla, who was similarly situated as the petitioner, hence, the petitioner was entitled for the step up the pay of the petitioner equivalent to his junior Sh. Darshan Lal Bhalla with all consequential benefits.

2. The facts mentioned in the petition are that the petitioner was promoted to the post of Assistant Superintendent of Treasury on 21.12.1995 on purely temporary basis. Thereafter, vide order dated 06.01.1997, the petitioner was regularly promoted on the said post w.e.f. 08.11.1995 i.e. the date from which his junior Sh. Radhey Shyam was promoted and while working in the cadre of Assistant Treasury Officer, the petitioner was required to pass a departmental examination which the petitioner failed to do. Keeping in view the said fact, the petitioner was not granted the increment for the years 1999 & 2000 and thereafter, the petitioner retired from service w.e.f. 30.04.2000.

3. The similar grievance was raised by one Sh. Darshan Lal Bhalla, who was similarly situated as the petitioner and has not been granted the annual increment for the same period on the same ground of non-passing of departmental examination and Sh. Darshan Lal Bhalla approached the Civil Court but the Civil Court had not granted the said benefit to him and ultimately Sh. Darshan Lal Bhalla had filed RSA No.3422 of 2007, which came to be decided by the Coordinate Bench of this Court on 12.07.2016 and keeping in view the fact that the Department had been giving exemption to the similarly situated employees from passing of the departmental examination, the claim of Sh. Darshan Lal Bhalla was

allowed for the grant of two increments for the year 1999 & 2000. The claim of the petitioner is that once a benefit has been given to a junior employee, the same should have been given to the petitioner also being a similarly situated employee.

4. Learned counsel for the respondents submits that though the petitioner was similarly situated to Darshan Singh but the benefit was given to Sh. Darshan Lal Bhalla keeping in view the direction given by Co-ordinate Bench of this Court in RSA No.3422 of 2007, hence, the benefit was extended to Sh. Darshan Lal Bhalla keeping in view the direction given by the competent Court of law. Further, the objection raised is that the petitioner had not raised any grievance with regard to the non-grant of increment after his retirement as no appeal is stated to have been filed against the said judgment and had already filed the present petition after the judgment in Sh. Darshan Lal Bhalla's case and therefore, the present petition is liable to be dismissed on the ground of delay and laches.

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

6. It is a conceded fact that the petitioner is not only senior to Sh. Darshan Lal Bhalla but was also similarly situated to him. It is also a conceded position that keeping in view the order passed by the Coordinate Bench of this Court in RSA No.3422 of 2007 on 12.07.2016, Sh. Darshan Lal Bhalla has already been granted the benefit of increment for the year 1999 & 2000 despite the fact that he had also not passed the departmental examination and was similarly situated as the petitioner. The benefit has been given to Sh. Darshan Lal Bhalla on the ground that the similarly situated employee had been given exemption from passing the departmental examination, who had attained the age of 55 years, which also covered the

case of Sh. Darshan Lal Bhalla. It may be noticed that even the petitioner had also crossed the age of 55 years on the date when he was promoted to the post of Assistant Treasury Officer. That being so, once a similarly situated employee has been granted the benefit by this Court, the same should have been given to the petitioner also.

7. The question that the petitioner had approached this Court after a period of 17 years of retirement, it may be seen that the petitioner is claiming the benefit keeping in view the fact that a junior employee was given the said benefit in the year 2017. That being so, the petitioner's grouse only arose when a similarly situated employee was granted the benefit in the year 2017 by the respondents themselves while complying with the order passed by this Court in RSA No.3422 of 2007, hence, question of delay, which is being raised by the respondents, will not be applicable in the facts and circumstances of the present case.

8. Furthermore, learned counsel for the petitioner has submitted that as the petitioner had approached the Court after a period of 17 years, the petitioner will not claim any benefit of arrears till the filing of the present petition and therefore, the benefit of arrears for which the petitioner become entitled for, be given to him after revising his pay, starting from the date when the petitioner approached this Court by filing the present writ petition i.e. 01.08.2018.

9. Keeping in view the very genuine offer of the petitioner, the present writ petition is allowed. The respondents are directed to grant the the benefit of two increments to the petitioner for the year 2000 and re-fix his salary and also the retiral benefits along with pension for which the petitioner will become eligible. The actual arrears will only be given to the petitioner starting from 01.08.2018 onwards till the petitioner remained

alive keeping in view the fact that during the pendency of the petition, the petitioner has unfortunately died and the present petition is being pursued by his legal heirs. Let the arrears for which the petitioner become entitled for, be extended in favour of the legal heirs within a period of two months from today.

10. No other argument was raised.

11. The present writ petition is allowed in above terms.

November 07, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No