

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7764-2017 (O&M)
Date of Decision: 03.08.2023

Dr. S.C. Aneja and another

. . . . Petitioners

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. H.K. Brinda, Advocate
 for the petitioner.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. By way of present petition, the petitioners claim full pension from 01.01.2006 and assail the notification dated 15.12.2011 which limits the grant of full pension to only those persons who have attained superannuation after 01.12.2011.
2. A single Judge of this Court in ***CWP-7239-2015 and 88 connected cases*** decided on 18.12.2019 with lead case titled as '***Labh Singh Dhaliwal and others vs. State of Punjab***' relying upon an earlier decision passed in ***CWP-11373-2012*** titled as '***Rattan Singh and others vs. State of Punjab***' decided on 16.08.2013 and judgment passed by Division Bench in ***LPA-1857-2013*** decided on 09.07.2014, held as under:

"18. Despite the order passed by this Court on 31.05.2019, the State has not been able to furnish the details, as called for by this Court, as is apparent from the affidavit dated 20.07.2019 filed by the Deputy Secretary, Department of Finance, Government of Punjab, which clearly indicates that no exercise has been carried out in earnest as per the requirement of the Division Bench judgment of the Court to assess the liability and the burden, if any, upon the Government in case the letter

dated 15.12.2011 is given effect to from 01.01.2006. After the opportunity granted by the Division Bench and by this Court also during the pendency of these cases, no further opportunity needs to be granted to the State in these matters. The action of the State, therefore, is unsustainable and the letter dated 15.12.2011 of the Government of Punjab being in violation of the settled proposition of law, as has been so held by the Single Bench and upheld by the Division Bench of this Court referred to above, cannot sustain and deserves to be set aside.

19. In view of the above, these writ petitions are allowed. Letter dated 06.01.2015 issued by the Punjab Government, Finance Department (Finance Pension Policy & Co-ordination Department) is hereby quashed.

20. Since the Division Bench of this Court vide order dated 09.07.2014 passed in LPA No. 1857 of 2013 had set aside the judgment of the Single Judge dated 16.08.2013 to the limited extent of conferring the benefit of the letter dated 15.12.2011 w.e.f. 01.01.2006 with a direction to re-consider the issue and take a fresh decision with regard to the date of implementation of the decision contained in the letter dated 15.12.2011 which cut off date i.e. 01.12.2011, as fixed by State of Punjab in its letter dated 06.01.2015, has been quashed, the employees, who had retired w.e.f. 01.01.2006 and fulfil the requirements of letter dated 15.12.2011, shall be entitled to the benefit of the letter dated 15.12.2011. This is being so held in the light of the fact that the cut off date, as fixed by the State, has failed to pass the test as laid down by the Single Bench in its judgment dated 16.08.2013, which had been upheld by the Division Bench of this Court in its judgment dated 09.07.2014 as reproduced and summarized in the earlier part of this judgment.

21. Let the consequential benefits be released to the eligible petitioners and similarly placed retired employees within a period of four months from today.”

3. In view of the aforesaid judgment and also taking into consideration the law as settled by the Supreme Court in ***D.S Nakara v. Union of India 1983 SCR (2) 165***, this Court agrees with the view taken by the Co-ordinate Bench that the cut off date fixed by the State of Punjab in the Circular dated 15.12.2011 has no nexus to the purpose sought to be achieved once the requirement of 33 years of service has been dispensed with for granting full pension, the same would apply uniformly to all the retired persons who have attained superannuation prior to passing of order

dated 15.12.2011 and cannot be limited to those who retired after 01.12.2011.

- 4. Accordingly, the Writ Petition stands *allowed*.
- 5. Consequential benefits shall be released to the petitioners and arrears to be released within a period of 3 months from today.
- 6. However, the petitioners would not be entitled to interest as the denial was on the basis of a notification and cannot be said to be a fault on the part of the respondents.

(SANJEEV PRAKASH SHARMA)
JUDGE

August 03, 2023
Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |