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

***LPA No.118 of 2017 (O&M)***
***Reserved on: 15.03.2023***
***Date of Decision: 29.03.2023***

***RAM KISHAN***

***.... Appellant***

**Vs.**

***PUNJAB STATE POWER CORPORATION LTD. PATIALA THROUGH ITS CHAIRMAN-CUM-MANAGING DIRECTOR AND OTHERS***

***.... Respondents***

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

Present: - Mr. Amarjit Singh, Advocate for the appellant.

Mr. Mohit Garg, Advocate for
Mr. Suveer Sheokand, Advocate,
for respondents No.1 to 3-PSPCL.

Mr. Arjun Sheoran, DAG, Punjab.

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***M.S. RAMACHANDRA RAO, J.***

This Letters Patent Appeal is filed challenging judgment dt.05.12.2016 of the learned Single Judge in CWP-1833-2015.

The appellant had retired from the Punjab State Power Corporation Ltd., Patiala as an Additional Superintending Engineer on 31.05.2001. He was sanctioned pension, and was drawing as per Pension Payment Order (P-1).

The State of Punjab had issued a letter dt.28.12.1994 (P-2) and had allowed one month basic pension as Travel Concession after completion of every block of two years.

The appellant become entitled to grant of benefit of Leave Travel Concession w.e.f.01.07.2003 as per a letter dt.12.07.2000 ( P-3) issued by the State of Punjab.

The appellant was paid the Travel Concession on 01.07.2003, 01.07.2005, 01.07.2007, 01.07.2009, 01.07.2011 and 01.07.2013 by the respondent No.1-Corporation only on the basic pension amount.

Additional quantum of pension termed "old age pension" was sanctioned by the State of Punjab on 17.08.2009 to those who attained the age of 65 years and above w.e.f.01.01.2006. This was increased on 22.12.2011 (P-6).

**The case of the appellant**

The appellant contends that the Travel Concession should be paid to him on the amount of the basic pension, dearness pension, interim relief and additional quantum of pension. He placed reliance on P-4 letter dt.21.1.2008 issued by the Punjab Government referring to it's previous letter dt.7.3.2007 stating that '*interim relief will be treated as Pay/Pension for all times and purposes'*. In P-4, the Punjab Government clarified that Interim relief is to be included with Basic Pension ( excluding dearness pension) for travel concession to pensioners.

When the appellant made a representation to respondent No.1 in that regard, respondent No.2 vide P-8 dt.03.08.2012 stated that there are no instructions of the respondent No.1 regarding payment of the Travel Concession.

The appellant made another representation on 15.01.2014 (P-9) regarding grant of Travel Concession by including additional pension and thereafter filed CWP-1833-2015 to direct the respondents to release the benefit of Travel Concession calculating the emoluments of the basic pay, dearness allowance/interim relief and old age pension.

**The stand of respondent No.1-3**

The respondents No.1 to 3 filed a written statement opposing the said claim.

They contended that as per para 9 of a circular No.73/89 issued by the respondent No.1, the Travel Concession equal to one month's basic pension is to be paid after completion of every block of two years and the appellant cannot include the emoluments of dearness pension, interim relief and old age allowance while calculating the benefit of the Travel Concession as those allowances are distinct and separate.

Reference is made to Finance circulars No.14/99 and 18/09 (Annexures R-1 to R-3). Reliance is also placed on a Finance circular No.15/2004 excluding dearness allowance from being taken into consideration for Travel Concession though not for old age allowance.

They denied Annexure letter dt.21.01.2008 (P-4) being relied on by the appellant stating that interim relief would be treated as pay/pension for all intents and purposes.

**Stand of respondent no.4/ State of Punjab**

The respondent No.4 filed a written statement saying that Annexure P-4 letter dt.21.01.2008 was not found to be in existence in the records maintained by the Department of Finance and does not appeared to have been issued by the said department.

But it admitted that letter 07.03.2007 (mentioned in para 3 of P-4 dt.21.01.2008) which clarified that *interim relief will be treated as pay/pension for all intents and purposes*, was available in the records of the Finance Department and was filed as Annexure R-4/1 along with the reply.

Another letter dt.31.10.2006 issued by the Government of Punjab reiterating that *interim relief will be treated as pay/pension* is also filed as R-4/2.

**The order of the Single Judge**

The learned Single Judge dismissed the Writ Petition on the ground that the State of Punjab had made it clear in its reply that P-4 dt.21.01.2008 was not issued by it.

He did not notice R-4/1 and R-4/2 filed along with the reply of the State of Punjab reiterating that *interim relief would be treated as pay/pension for all intents and purposes*, which was also what was stated in P-4 dt.21.01.2008. Thus the fact that the State of Punjab denied issuing P-4 dt.21.01.2008 makes no difference.

The Single Judge also held that all instructions issued by the Government are not binding on the respondent No.1-Corporation unless it is adopted by it, and that even if the Government had issued instructions dt.07.03.2007 (Annexure R-4/1) that interim relief will be part of pay/pension for all intents and purposes, these are not binding on the respondent No.1-Corporation unless they are adopted by it; and there is nothing to show that they were ever adopted by it.

The predecessor of respondent No.1 is the Punjab State Electricity Board. It had issued Finance Circular (R-1) adopting the Punjab State Government Circular letters dt.31.08.1989 on 30.10.1989. The Government of Punjab's letter dt.31.10.1989 provided for calculation of pensionary benefits w.e.f.01.01.1986 as per the recommendations of the 3$^{rd}$ Punjab Pay Commission. It was in this letter at para 9 that the Travel Concession benefit was granted to pensioners equal to one month basic pension after completion for every block of two years. Admittedly, the respondents 1-3 are giving this benefit to all pensioners following the decisions of the Punjab Government.

By Finance Circular No.14/99 (R-2) a clarification was issued by the respondent No.1 that where pension has been revised w.e.f 01.01.1996, and in cases of retirement arising thereafter, Travel Concession equal to one month's basic pension is payable at the *revised rates* and arrears are to be paid accordingly; and even *old age allowance* is to be determined with reference to the revised pension and arrears were to be paid. Thus even this was done by respondents 1-3 on the basis of the decision of the Punjab Government contained in it's letter dt.16.07.1998 as per the recitals in R-2.

By Finance Circular No.18/09, the respondent No.1 followed the letters issued by the State Government of Punjab dt.17.06.2009 and 17.08.2009. The letter dt.17.08.2009 revised the benefits payable to pensioners such as pension, additional pension (depending on age of the pensioners from 65 years of age to 100 years and more, additional pension as a percentage of the revised basic pension was fixed therein). The additional pension was directed to be shown distinctly in the Pension Payment Order. In para 9, it was stated "*the existing provisions relating to Travel Concession shall continue to be in force*".

The learned Single Judge does not appear to have noticed any of the above documents in coming to the erroneous conclusion that instructions of the State Government were not adopted by the respondent No.1.

The learned Single Judge then held that additional pension given to pensioners who complete 65 years and above is a special allowance on completion of a certain age and was not additional pension. This finding is incorrect because the Government of Punjab in its letters and the respondent No.1 in its circulars (adopting the instructions of the Government), referred to the same as *additional pension.* [Para 3.4 in letter dt.17.08.2009 of the Govt. of Punjab which was adopted in Finance Circular No.18/09 (R-3) by respondent No.1 and Finance Circular No.5/2012 dt.12.03.2012 (R-5)].

We therefore disagree with the view of the learned Single Judge that the additional pension payable on attaining a particular age is not part of pension and cannot be treated as part of pension for computation of Travel Concession.

In our opinion, the amount payable to a pensioner on attaining a particular age after 65 years which is a percentage of the revised basic pension (5% to 100%), is *additional pension* and continues to have the same character as a pension.

We have already noted that by Finance Circular No.14/99 (R-2) a clarification was issued by the respondent No.1 that where pension has been revised w.e.f 01.01.1996, and in cases of retirement arising thereafter, Travel Concession equal to one month's basic pension is payable at the *revised rates* and arrears are to be paid accordingly.

So when a *revision* is pension is being taken into account to calculate the Travel Concession, *additional pension* ( paid on attaining a particular age  to a pensioner) which is also a pension cannot be excluded from such calculation merely on the ground that it is shown separately in the Pension Pay order. Therefore, this component is to be taken into account for the computation of the Travel Concession, and cannot be excluded therefrom.

Therefore the order of the learned Single Judge is set aside and the appeal is allowed to the above extent. The appellant shall be paid Travel Concession taking the component of *additional pension/old age pension* as well and arrears if any due w.e.f. 1.7.2012 of Travel Concession calculated on this basis shall be paid to the appellant in 8 weeks . If not, interest thereon shall be paid by respondents 1-3 at 6% p.a from the dates such payments ought to have been made till date of actual payment. No costs.

All pending applications stand disposed accordingly.

**(M.S. RAMACHANDRA RAO)**
**JUDGE**

**(SUKHVINDER KAUR)**
**JUDGE**

**March 29, 2023.**
*Ess Kay*

1. *Whether speaking/reasoned?* ***Yes***
2. *Whether reportable?* *Yes*