



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CWP-20287-2003 (O&M)
Date of decision : 19.11.2024

Vidya Nand and othersPetitioners

V/S

State of Punjab and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. R.K. Arora, Advocate and
Mr. Sunny Singla, Advocate
for the petitioners.

Mr. Surya Kumar, A.A.G., Punjab.

Mr. Harsh Aggarwal, Advocate
for respondent No.3.

NAMIT KUMAR, J. (ORAL)

1. The instant petition has been filed by the petitioners under Articles 226/227 of the Constitution of India, claiming the following relief :-

“For the issuance of appropriate writ in the nature Certiorary/Mandamus or such other appropriate writ, order or direction directing the respondents to count the work-charge service rendered by petitioners for the purpose of granting them benefits of pay fixation under Chapter 26 of Third Pay Commission as per the instructions of the Government dated 16.9.2002 and also quashing the portion of the order dated 11.8.2003 whereby the benefit of Chapter 26 has been restricted to 28 employees and no reason has been assigned for declining the benefits to the petitioners who are also similarly

**CWP-20287-2003 (O&M)**

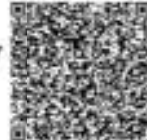
situated and also directing the respondents to count the work charge services rendered by the petitioners towards additional increments of proficiency step up and also for the purpose of qualifying service for pensionary benefits with all Consequential benefits.”

2. In the written statement filed on behalf of contesting respondent No.3, it has been stated as under :-

“xx xx xx xx xx

12. That the para no. 12 of the petition is wrong and hence denied. The petitioners were initially not given benefit of Chapter 26 as they did not have 5 years of regular service till 01-01-1986. However, now the answering respondent vide order dated 11-8-2003 (Annexure P-11) has ordered that the recommendations of Chapter 26 of the 3rd Pay Commission may be made applicable upto 31-12-1995. In view of this order the grant of benefit of Chapter 26 of 3rd Pay Commission Report to the Petitioner No.1, 3 and 9 has already been ordered and the record has been submitted to Audit for verification. These petitioners shall be given the due benefit in due course. The rest of the petitioners have not been given the benefit of Chapter 26 of 3rd Pay Commission as they did not have 5 years of regular service till 31-12-1995 i.e. the date upto which the recommendations of Chapter 26 of the 3rd Pay Commission have been made applicable. This fact has already been intimated to the petitioners in reply to their demand/legal notice dated 30-09-2003 (Annexure P-17) by letter dated 01-01-2004. The copy of this letter is appended herewith as Annexure R-1.

xx xx xx xx xx”

**CWP-20287-2003 (O&M)**

3. On 18.01.2024, the following order was passed :-

“Learned counsel for respondent No.3 seeks an adjournment to get instructions in terms of para 12 of the written statement wherein it has been stated that petitioners No.1, 3 and 9 have already been ordered to grant the benefit of Chapter 26 of the 3rd Pay Commission Report and submitted to audit for verification. It has further been averred that these petitioners shall be given the due benefit in due course.

Let specific affidavit shall be filed as to whether actual benefit has been granted to petitioners No.1, 3 and 9 or not.

Adjourned to 18.04.2024.”

4. In pursuance to the abovesaid order an affidavit of Sh.Parshotam Lal, Executive Engineer (O&M), Municipal Corporation, Ludhiana has been filed, wherein it has been stated as under :-

“xx xx xx xx xx

2. That during the course of arguments on 18.1.2024, the respondent-Corporation was directed to file an affidavit regarding the release of benefits to petitioners no.1, 3 & 9. In compliance of the said order, it is stated that the necessary benefits were released to petitioner no.1 on 11.4.2012, petitioner no.3 on 11.4.2012 & petitioner no.9 on 5.7.2012.

xx xx xx xx xx”

5. In view of the averments made in the additional affidavit, benefit of Chapter 26 has already been granted to petitioners No.1, 3 & 9, therefore, the instant petition has been rendered infructuous qua petitioners No.1, 3 & 9.

**CWP-20287-2003 (O&M)**

6. From the pleadings of the petition, it is not clear as to how the remaining petitioners are entitled to the said benefits. Learned counsel(s) for the petitioners wishes to withdraw the present petition on behalf of the remaining petitioners with liberty to make a detailed representation to respondent No.3 with regard to their claim under Chapter 26.

7. If any such representation is submitted by the petitioners (except petitioners No.1, 3 & 9) within a period of 01 months from today, the same shall be considered and disposed of by respondent No.3 by passing a speaking order, within a period of 03 months thereafter. Needless to mention here that if the remaining petitioners are held entitled for the benefit as claimed in the representation, the same shall be released to them within a period of one months thereafter.

8. Disposed of in the above terms.

9. Pending application, if any, shall stands disposed of accordingly

19.11.2024*kothiyal***(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No