



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

440

CWP-13145-2001 (O&M)
Date of Decision: 29.05.2024

Smt. Prit Pal Kaur, Headmistress

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioner

Mr. Swapan Shorey, DAG Punjab

AMAN CHAUDHARY, J. (Oral)

1. The prayer in the present petition is for releasing arrears of pay on account of deemed date of promotion granted in compliance to the directions dated 06.11.2000, in CWP-14967-2000, as the petitioner, though being senior as on 06.08.1987, was not considered, while her junior was promoted on that date. She was entitled to salary and allowances, as she was eligible and willing to perform the duties, but was kept away from it. Reliance is placed on CWP-2455-1997, **Kuldeep Kaur vs. Union of India and others**, whereby the Division Bench of the Court decided a similar issue and allowed it vide judgment dated 16.12.1997, SLP against which was also dismissed on 12.05.1998. The relevant paras whereof read thus:

“Vide order dated March 26, 1993, the petitioner was promoted as T.G.T. (Humanities) w.e.f. March 21, 1984. Her seniority number in the feeder cadre, i.e., PRT was 3106 but she was not promoted when her juniors were so promoted and it was only vide order dated March 26, 1993, that she



was promoted to the higher rank w.e.f. March 21, 1984, Earlier also, the petitioner had filed a writ petition - CWP No. 11071 of 1994 - inter alia praying that her seniority as T.G.T. be fixed and she should be given consequential benefits from the deemed date of promotion as T.G.T. This Court ordered that her representation for the aforesaid reliefs be decided. Vide order dated February 9, 1996, copy Annexure P-3, it has been ordered that the petitioner would be treated as T.G. T. w.e.f. March 21, 1984, for purpose of seniority in the T.G.T, but she would not be entitled to any arrears from that date.

The petitioner filed the present writ petition that for no fault of hers, she was deprived to work as T.G.T. w.e.f. the above date and it was only on a representation that order dated March 26, 1993, copy Annexure P-1 was passed. The learned counsel for the petitioner relied upon the judgment of the Supreme Court in **Union of India v. K.V. Jankiraman, 1991 S.C. 2010** and a Division Bench of this Court in **C.W.P. No. 11749 of 1996 (Krishan Kumar v. Haryana State Federation of Consumers Co-operative Whole Sale Stores Ltd. and another)** decided on December 10, 1997, to claim arrears of pay w.e.f. the date the petitioner had been promoted. On the other hand, learned counsel for the respondent has urged that since the petitioner did not physically work as T.G.T. w.e.f. the deemed date of promotion, she will not be entitled to any arrears especially in view of the instructions dated April 10, 1989, issued by the Government of India, copy Annexure R-4.

We have heard learned counsel for the parties. It has been held by the apex Court in **Jankiraman's case** (Supra) as well as by the Division Bench in **Krishan Kumar's case** (Supra) that in case for no fault of the incumbent he is deprived from working on a higher post and is lateron promoted to the higher post with retrospective effect, he cannot be denied the arrears of pay. In State of Haryana and others v. O.P. Gupta, 1996(2) R,S.J. 194, it was held that if the seniority of the incumbent is under dispute and is rectified in accordance with the rules on the intervention of the Court or otherwise and thereafter promotion is ordered with retrospective effect, the incumbent may not be entitled to the arrears of pay. This case has no application to the facts of the present case. In our considered view, the case of the petitioner is covered by **Jankiraman's case** (Supra) as well as **Krishan Kumar's case** (Supra). Consequently, we allow this writ petition and quash the order dated February 9, 1996, copy Annexure P-3, to the extent it deprives the petitioner of the arrears of pay from the deemed date of promotion. Let the arrears be calculated and the same be released to the petitioner within three months."

2. Learned State counsel, despite his best efforts, has been unable to

controvert the factual position and draw out any distinctive aspects in the
aforementioned judgment or cite any contrary law.

3. In view of the aforesaid, the present petition is disposed of in terms
of the judgment passed in **Kuldeep Kaur** (supra).

4. The Registry is directed to send a copy of the judgment to
respondents for compliance.

29.05.2024
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(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No