

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

789

CWP-5589-2003 (O&M)
Date of decision: 07.03.2024

Sarlochan Kaur
Versus
....Petitioner

State of Punjab
...Respondent
CWP-11399-2004 (O&M)

Amarjit Panesar and Others
Versus
....Petitioner

State of Punjab and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Charanpreet Singh, AAG Punjab

AMAN CHAUDHARY. J.

1. This common order shall dispose of above-mentioned two petitions as they involve the same issue.
2. The present Civil Writ Petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order No.7/13-75/NFC (4) dated 07.11.2001.
3. Learned counsel for the petitioners submits that the prayer made is for changing the option for grant of revised pay scale, in view of the fact that the pay was fixed retrospectively. He submits that similar issue has since been decided by this Court in the case of **Jinder Singh and Others vs. State of Punjab and**

Others, 2019 (1) S.C.T. 776, the relevant paras thereof read thus:

“7. The judgment dated 21.03.1996 was complied with by the respondents-State but was limited only to the petitioner therein, which necessitated filing of another writ petition by the similarly situated aggrieved persons. **CWP No.7643 of 1997** titled as ‘**Narinder Kumar and others Vs. State of Punjab and others**’, was filed again with the same prayer for allowing them to re-exercise their option for the payscales as revised vide letter dated 24.12.1992, which came into effect 01.01.1986. The said writ petition was also allowed on 21.07.1998 and the relevant paragraph is as under: -

“Consequently, this petition is allowed in the same terms and the petitioners are allowed to give fresh options of the date within a period of one month w.e.f. which they want revision of their pay and if they do give the fresh options, then their pay scales be accordingly revised but the arrears so calculated would be confined to 3 years and two months prior to the filing of the present writ petitions, which was filed on 29.05.1997. If fresh options are given by the petitioners as aforesaid, the respondents will consider the case of the revision of their pay accordingly within a period of six months of the receipt of the options.”

9. Another writ petition being **CWP No.7464 of 2009** was filed titled as '**Surinder Kumar and others Vs. State of Punjab and others**'.

16. Against the said order of learned Single Judge, **LPA No.1838 of 2015** titled as '**Bal Krishan Vs. State of Punjab and others**' was preferred, which came to be decided by the Division Bench on 16.02.2017. The Division Bench, keeping in view the various writ petitions which were already allowed of the similarly situated persons, set aside the order passed by the learned Single Judge wherein the writ petition was dismissed on the ground of delay and laches. The relevant paragraph of the order passed by the Division Bench is as under:-

“The appellant's claim for allowing him to exercise fresh option for the grant of revised pay-scale has been turned down by learned Single Judge on the ground of

inordinate delay and laches. Learned Single Judge has also referred to the case law, laying down that where a person acquiesced his rights or has been sleeping over such right, the writ Court can decline to exercise its discretionary jurisdiction.

2. However, after hearing learned counsel for the parties, we find that there are various orders passed by other Benches including by one of us (Surya Kant, J.) where such belated claim has been entertained though subject to the rider that the pay shall be fixed notionally and pension/emoluments shall be paid prospectively i.e. from the date of decision of this Court. In the order under appeal, learned Single Judge has not assigned any reason whatsoever to distinguish those reasons.

3. In this view of the matter, we allow this appeal; set aside the order dated 06.07.2014 and dispose of the appellant's writ petition with a direction to the respondents to consider his claim as contained in the legal notice dated 16.12.2013 (P-9) in the light of the decisions relied upon by him in the writ petition and pass an appropriate speaking order within a period of *four months* from the date of receipt of certified copy of this order.”

18. It is a settled principle of law settled by the Division Bench of this Court in case '**Satbir Singh Vs. State of Haryana, 2002(2) S.C.T. 354** wherein a Division Bench of this Court has held that when the judgment attain finality, duty is casted upon the State to grant relief to all the similarly situated employees. It is not necessary for the State to require each one of its employees to approach the Courts of law for the grant of a relief which the State ought to grant the employees in normal course of its administration. The relevant portion of the said judgment is as under: -

“When judgments attain finality to which the State is a party, duty is casted upon the State to grant relief to its employees who are similarly situated and on identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is not necessary for the State to require each one of its employees to approach the Courts of law for grant of a

relief which the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years now. By referring to few judgments we would only predicate the principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of **Dr. (Mrs.) Santosh Kumari v. Union of India and others, JT 1994 (7) SC 565 : 1995(1) SCT 527 (SC)** the Hon'ble Apex Court held as under : -

“The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The matter is one of principle and should not depend upon who comes to the court. A more deserving candidate may not have the means of approach the Court.”

21. Furthermore, it is an admitted fact that the State has been implementing the order passed by this Court wherein, a large number of employees had already been allowed to re-exercise their option in terms of the notification dated 24.12.1992. Once that be so, the State is under obligation to grant the said relief to all the similarly situated persons on the same terms and conditions without asking them/forcing them to approach this Court to seek order for allowing them to exercise the option under the instructions dated 24.12.1992, by which pay scales were revised.

24. In view of the above, the present writ petitions are allowed. The respondents are directed to allow the petitioners to re-exercise their option in terms of the Finance Department circular dated 24.12.1992 by which pay scales were revised, within a period of two months from the date of receipt of a certified copy of this order. The pay shall be fixed notionally w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006, as the case may be and the actual benefit which the petitioners will be entitled for in terms of this judgment will be prospectively from the date of the decision of this Court. The fixation will be done notionally without any arrears to anyone till the date of this order.”

4. Learned counsel thus, at this stage, on instructions, submits that the

petitioners would be satisfied, in case, a direction is given to the State to consider and decide their claim, in light of the aforesaid judgment, in a time bound manner.

- 5. Learned State counsel has no objection to the limited prayer made.
- 6. In view of the aforesaid, this petition is hereby disposed of with a direction to the State to consider the case of the petitioner, taking note of the judgment referred to above, within a period of 6 months and in case, petitioners are found eligible, release the same benefits in terms thereof.
- 7. A photocopy of this order be placed on the file of the connected case.

(AMAN CHAUDHARY)
JUDGE

07.03.2024
M.Kamra

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