



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(210) CWP No. 6780 of 2000 (O&M)
Date of Decision : 07.08.2024
Jasbir Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

(216) CWP No. 9707 of 2014 (O&M)
Jawala Singh and others ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate with
Mr. Akshat Kalia, Advocate,
Mr. Preet Arogi, Advocate and
Mr. B.P.S. Thakur, Advocate for the petitioner
in CWP-6780 of 2000.

Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate for the petitioners
in CWP-9707-2014.

Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab and
Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which
have been given in the heading, are being decided as both these petitions
involve the same question of law on similar facts.



2. For the sake of convenience, the facts are being taken from CWP No. 6780 of 2000.

3. In the present petition, the grievance of the petitioner is that petitioner should be allowed to re-exercise her option keeping in view the Revised Pay Rules which had come into being vide Punjab Civil Services (Revised Pay) Rules, 1988 (hereinafter referred to as '1988 Rules') w.e.f. 01.01.1986.

4. As per the Revised Pay Rules, an employee was given an option as to from which date the employee intends to opt for the revised pay and the petitioner exercised the said option keeping in view 1988 Rules. Thereafter, keeping in view the further revision of the pay scales which were granted from 01.01.1986, the employees requested for allowing them to re-exercise their option to opt for the pay scale so that they do not suffer financially. The said benefit was being declined by the respondents, which grievance has been raised in the present petition.

5. Learned counsel for the petitioner argues that the issue which has been raised in the present petition was also raised in CWP No. 7855 of 2014 titled as ***Jinder Singh and others Vs. State of Punjab and others***, decided on 17.12.2018, wherein, after going through various orders passed by this Court on the same issue, the benefit of re-option was allowed in favour of the employees, hence, the claim of the petitioner needs to be allowed in the same terms as, similarly situated employees need to be treated in a same manner.



6. Learned counsel for the respondents, on the other hand, submits that though the benefit as being claimed by the petitioner was allowed in ***Jinder Singh and others' case (supra)***, but a Co-ordinate Bench of this Court while passing order in CWP No. 3350 of 2023 titled as ***Kashmiri Lal Vs. State of Punjab and others***, decided on 03.07.2023 has declined the said benefit on the ground of delay and on the ground that any option exercise after the cut off date cannot be accepted to be valid hence, the benefit being claimed by the petitioner in the present petition is liable to be rejected in view of ***Kashmiri Lal's case (supra)***.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. From the facts which have been narrated here-in-before, it is clear that the issue with regard to allowing of the re-exercise of the option was settled by this Court while passing order in ***Jinder Singh and others' case (supra)***, which order was passed on 17.12.2018. By a detailed order, the State was directed to grant the benefit and the State was also directed that everyone should not be made to approach this Court and the benefit should also be extended to the similarly situated employees.

9. After the judgment in ***Jinder Singh and others' case (supra)***, the respondents again issued a Circular on 10.07.2019 so as to allow the change of option on certain terms and conditions. Keeping in view the Circular dated 10.07.2019, the option was required to be exercised upto 10.09.2019 and anybody exercising the option was made eligible for the grant of benefit as extended in ***Jinder Singh and others' case (supra)***.



10. It may be noticed that on the date when the judgment in ***Jinder Singh and others' case (supra)***, was pronounced by this Court, the writ petition filed by the petitioners was already pending adjudication in this Court. The petitioner filed the present petition in the year 2000 and was pending adjudication. It is also not disputed by the learned State counsel that before filing the writ petition in the year 2000, the petitioner had already sought permission to re-exercise her option in the year 1998. That being so, the claim of the petitioner will be covered under the judgment in ***Jinder Singh and others' case (supra)***, wherein the similarly situated employees have been granted relief.

11. Not only this, after the ***Jinder Singh and others' case (supra)***, the respondent-State also issued a Notification giving another opportunity to the employees to exercise the option. The re-exercised option of the petitioner was very much available with the respondent-department on the date when the Notification dated 10.07.2019 was issued. The respondents were under obligation to grant the petitioner the benefit keeping in view the option already exercised in the year 1998. Hence, the claim of the petitioner is very much covered under the judgment of this Court in ***Jinder Singh and others' case (supra)*** as well as the Notification dated 10.07.2019.

12. Qua the argument of the learned State counsel that the claim of the petitioner is liable to be rejected in view of the judgment of the Co-ordinate Bench of this Court in ***Kashmiri Lal's case (supra)***, it may be noticed that the judgment in ***Jinder Singh and others' case (supra)*** was not brought to the notice of the Court at the time of hearing. Once, a Co-ordinate



Bench has already taken a view, any contrary view taken subsequently without noticing the earlier judgment, the same cannot be relied upon.

13. Even otherwise, the relief in ***Kashmiri Lal's case (supra)***, has only been declined on the ground that the petitioner therein never exercised option upto 14.09.2019 though, even in the Instructions dated 10.07.2019, the option period expired on 10.09.2019. It was under these circumstances, the Co-ordinate Bench had held that once the cut off date given by the State in the Notification dated 10.07.2019 to exercise option had expired, the claim could not be considered after the said date, hence, the ground being taken by the respondents that the claim of the petitioner be dismissed in view of ***Kashmiri Lal's case (supra)***, is not at all correct and cannot be accepted.

14. Keeping in view the judgment of this Court in ***Jinder Singh and others' case (supra)***, coupled with the Notification dated 10.07.2019 as, the application of the petitioner to re-exercise the option was very much available with the respondents prior to 10.09.2019, the respondents are directed to allow the petitioner the said benefit in terms of the judgment in ***Jinder Singh and others' case (supra)*** coupled with the Notification dated 10.07.2019 by passing appropriate order. The relief, as being granted to the petitioner in ***Jinder Singh and others' case (supra)*** are also allowed in favour of the petitioner in the present case. Let the order be complied with within a period of two months from the receipt of copy of this order.

15. Both the petitions are allowed in above terms.

16. Pending miscellaneous application, if any, also stands disposed of.

CWP No. 6780 of 2000 (O&M) and
CWP No. 9707 of 2014 (O&M)

2024:PHHC:101596



17. A photocopy of this order be placed on the file of connected cases.

August 07, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes