

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

262

CWP-6603-2020 (O&M)
Date of decision: 06.03.2024

Kailash Bhagat

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kapil Kakkar, Advocate for the petitioner

Mr. Swapan Shorey, DAG Punjab

AMAN CHAUDHARY. J.

1. 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/mandamus or such other appropriate writ, order or directions for quashing of order dated 07.11.2019 (Annexure P-13), whereby claim of the petitioner for grant of two annual increments being 'National Awardee' as has been given to the similarly situated persons.

2. Learned counsel submits that the petitioner, who was working as a Lecturer, had earned State Award on 05.09.2011. As such, she was granted four years extension in service after the date of superannuation, and also two annual increments, in terms of instructions dated 28.02.1985 and 05.07.2006, respectively. However, the same were withdrawn, in view of general Instructions that annual increment would not be admissible to employees during the period of extension. But the case of the petitioner being distinct was covered by the said instructions. Her claim raised in legal notice with regard to the above was decided

pursuant to the direction passed vide order dated 18.11.2021 passed in CWP No. 15868-2021 and wrongly rejected on 11.02.2022 on the premise that the judgment dated 12.10.2018 in CWP No. 11838-2015 titled as ***Kailash Dua and others vs. State of Punjab and others*** was in *personam* and not in *rem*. The said judgment was not challenged by the Department and implemented.

4. Learned State counsel stoutly opposes the petition that in view of instructions dated 25.02.2014, the petitioner is not entitled to the additional increment while she was on extension in service and as required, had at the time of grant of same submitted an undertaking to the authorities for not claiming the same.

5. Heard learned counsel on either side.

6. It would be apposite to make a reference to the judgment in **Kailash Dua** (supra), wherein this very objection as sought to be raised on behalf of the State, was considered and rejected, the paras relevant in this regard read thus:

“It is not disputed that all the petitioners had availed their two years' extension in service on account of being National Awardees and have earned annual increments prior to issuance of instructions dated 25.02.2014 (Annexure P-13). The benefit already earned by them on the basis of prevalent instructions on the date of grant of extension in service or during extension cannot be permitted to be withdrawn on the basis of subsequent instructions by applying the same with retrospective effect. The petitioners were granted extension in service on the basis of instructions dated 28.02.1985 (Annexure P-2). They were granted benefit of annual increments during extension on the basis of clarification dated 10.06.1999 (Annexure P-10) from respondent No.3. It is admitted that a large number of similarly situated persons have been given such benefit and after retirement, they were granted pensionary benefits on the basic pay including two increments were given to them being National Awardees. A similarly placed employee, Narinder Singh, Deputy CEO (since retired) was also been given the same benefit as finds mentioned in Annexure P-17.

In view of above, the present civil writ petition is allowed. The impugned Memo dated 25.02.2014 (Annexure P-13) is held to be not applicable to the case of the petitioners so as to deny them benefit of annual increments already earned by them as per prevalent instructions during the period of their extension in service. The memo dated 15.01.2015 (Annexure P-14) is also set aside. The respondents are directed to restore two annual increments to the petitioners with all consequential benefits. The needful be done within a period of two months from the date of receipt of certified copy of this order.”

7. In view of the aforesaid, the argument canvassed by the State cannot be countenanced. Moreover, he has not been able to controvert the fact that the judgment also stands implemented.
8. The case of the petitioner is found to be covered on all fours by the judgment in **Kailash Dua** (supra) and the same is allowed /disposed of in terms thereof.

(AMAN CHAUDHARY)
JUDGE

06.03.2024
M.Kamra

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