



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

685

CWP-1045-2006 (O&M)
Date of decision: 17.09.2024

Ram Sahai and Others

....Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioners

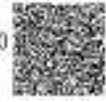
Mr. Tapan Kumar, DAG Haryana

AMAN CHAUDHARY, J. (ORAL)

1. The prayer made in the present petition is against withdrawal of the orders by which pay protection had been granted.
2. In the index of the petition, reference had been made to pendency of CWP-17120-2004, which along with a batch of petitions with lead case titled as **Bir Singh Lather and Others vs. State of Haryana and Others**, CWP-16394-2004, were allowed by this Court vide judgment dated 24.05.2010 by passing the following order:

“1. Based upon common question of law and identical facts, these petitions are being disposed of by this common order.

2. Petitioners in these cases were employees of Municipal Committees/Corporations. On being declared surplus in those organizations, they were absorbed in different Government Departments. On their absorption, their pay was fixed by taking into consideration the salary drawn in their parent organizations. As a matter of fact, their pay was protected while absorbing them in the government departments. Later, vide orders, impugned in this writ petitions, the benefit of pay protection has been withdrawn and their pay was re-fixed in the lower scale with consequential recovery. These orders are under challenge in these writ petitions. The controversy in these petitions is clearly covered



by earlier judgment of this Court dated 27.12.1997 in CWP No.11379 of 1997 titled '**Balbir Singh and others Vs. State of Punjab and others**'.

3. In the aforesaid writ petition all patwaries, working in Punjab State Tubewell Corporation, were absorbed in Revenue Department and their pay was protected and later on withdrawn, considering the controversy this Court passed the following order :-

"After hearing the learned counsel for the parties, we are of the view that if the Government as a Welfare State re-appointed the petitioners, after having been declared surplus in the Corporation, it would have to give the protection of the legal rights, which such appointees have under relevant rules. No doubt the petitioners could not claim re-employment as a matter of right on having been declared surplus, but once they had been re-employed they may be considered as fresh appointees, but their pay shall have to be protected under Rule 4.4 of the Punjab CSR, Vol. I, Part I, referred to above. They may be treated as fresh appointees, but for fixation of their pay, Rule 4.4 (supra) will come into play. Admittedly, the petitioners were not removed or dismissed by the Corporation nor had they resigned. They were holding permanent post in identical pay scale in the Corporation. The petitioners are the type of persons envisaged by Proviso 2 to Rule 4.4 (b)(1)(iii) and consequently under Clause 2 of the Proviso their initial pay cannot be less than the pay they drew in the Corporation at the time of re-employment. Unfortunately, we find from the impugned order that the authorities have not applied their mind to the importance of Rule 4.4 (supra).

For the foregoing reasons, we allow this writ petition and quash the orders of the State Government whereby the claim of the petitioners for the protections of their last pay drawn at the time of their re-employment in the Government has been negative and hold that the petitioners would be entitled to the last pay which they drew in the Corporation at the time of their re-employment in the Government service in the pay scale of Rs.1800-3200 and would, accordingly, be entitled to the increments thereon. The pay of the petitioners will, accordingly be calculated and the arrears would be paid within a period of three months of the receipts of a copy of this order, either from this court or a certified copy thereof from the petitioners, whichever is earlier".

4. The aforesaid judgment was challenged before the Hon'ble Supreme Court. The appeal preferred by the State of Punjab, was dismissed vide order dated 27.11.2001 in Civil Appeal



No.59551 of 1999 alongwith other connected matters.

5. In view of the above, these petitions are disposed of in terms of above referred judgments. Petitioners shall be entitled to similar relief.

6. A photocopy of this order be placed on the files of all connected cases.

3. Learned State counsel despite his best efforts has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

4. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Bir Singh Lather** (supra).

(AMAN CHAUDHARY)
JUDGE

17.09.2024
M.Kamra

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