



CWP-20319 of 2005

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-20319 of 2005

Date of Decision:01.08.2024

Sanjay Partap and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Tarun Yadav, Advocate,
for the petitioners.

Ms. Vibha Tewari, AAG, Haryana

AMAN CHAUDHARY J. (Oral)

1. Prayer made in the present case was for not reducing the pay of the petitioners to the pay scale in which they joined prior to absorption. On 23.12.2005, this Court ordered the present petition to be heard alongwith CWP No.16394 of 2004, titled as **Bir Singh Lather and others vs. State of Haryana and others** and stayed the recovery.

2. The aforesaid writ petition has since been disposed of vide judgment dated 24.05.2010, which reads thus:-

“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 Committee/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, thier 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 Later, vide orders, impugned in this writ petitions, the benefit of pay protection has been withdrawn and their pay was re-fixed in the lower scale with consequential recovery.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 '**Balbnir 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in Punjab State Tubewell Corporation, were absorbed in Revenue Department and their pay was protected and later on withdrawn, considering the controversy this Court passed the following order:-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 delcared surplus, but once they had been reemployed 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.”



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4. Learned State counsel despite her best efforts, has been unable to controvert the submissions made on behalf of the petitioners and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

5. In view of the above, the present petition is disposed of in terms of **Bir Singh Lather** (supra)

(AMAN CHAUDHARY)
JUDGE

August 01, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No