

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CWP-11722-2021 (O&M)
Date of decision: 22.02.2024

Wakeel Khan

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. A.S. Bains, AAG 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 for quashing the action of the respondents in not granting the benefit to the petitioner in the same terms as allowed in the decision dated 26.04.2018 in CWP-7001-2013.
2. Learned counsel would submit that the pay scale of Rs.400-600 as revised to Rs.950-1800 was granted to the petitioner, whereas, in terms of the Circular dated 04.02.1969, he was entitled to Rs.450-800, revised as Rs.1200-2100, based on the qualification possessed by him. This very issue was brought up before this Court by the employees working in the Punjab Health Department by filing a CWP-10759-1990 titled as **Rajinder Paul Gautam and Others vs. State of Punjab and others**, which was allowed on 30.05.2008. The LPA, as also SLP preferred by the State, were dismissed vide judgments dated 15.02.2010 and 12.07.2010, respectively. Subsequently, similarly situated

employees as the petitioner, who were working in the Department of Water Supply and Sanitation also approached this Court on the basis of the aforesaid judgment by filing CWP-7001-2013 titled as **Daljit Singh and Others vs State of Punjab and Others** and 9 other connected petitions, wherein, learned State counsel had raised a similar objection as taken in the written statement in the present case that the judgment in **Rajinder Paul Gautam's** case (supra) is only applicable to the petitioners therein. However, this argument was rejected while allowing the same vide judgment dated 26.04.2018, by observing that the Department of Water Supply and Sanitation and Department of Local Government, Punjab have generalized the matter and the benefit has been extended to all the employees, even to the non-petitioners as well and respondents were directed to implement the letter dated 04.02.1969 in toto and the pay scales were fixed notionally according to their qualifications category-wise in terms of aforesaid letter from categories I to VI from the date of their appointments within a period of 3 months. Then, a review application as also LPA were dismissed on 22.08.2019 and 21.11.2018, respectively.

3. Learned State counsel being unable to controvert the above or cite any contrary law.
4. Heard the learned counsel for the parties.
5. This Court in a lis at the hands of similarly circumstanced employees as the petitioner, on basis of the judgment in **Rajinder Paul Gautam's** (supra), observed thus:

“It is not disputed that the judgment of **Rajinder Paul Gautam's case** (supra) has attained finality and the same stands implemented by the Department of Water Supply & Sanitation, Punjab. Even it has generalized the matter in the

meeting held under the chairmanship of Chief Secretary, Punjab on 30.06.2011 (Annexure P- 10) and has extended the benefit of judgment to all the employees, even to the non-petitioners and further the benefit has been also extended to the employees who were regularised recently by the Government and their pay has been fixed according to their qualification from the date of their appointment. Similarly, the Department of Local Government, Punjab has also generalized the matter by way of letter dated 16.04.2012 (Annexure P-11) and letter dated 22.11.2012 (Annexure P-12) and has extended the benefit of judgment to all the employees and their pay has been fixed notionally from the date of their initial appointment. The petitioners in CWP No. 7001 of 2013 have placed on record certain documents/orders (Annexure P-13 to P-21) to show that the benefit of higher pay scale has been granted to various employees working on technical posts on the basis of subsequent directions given by this Court in several writ petitions. In response, the State has admitted the same but has denied the same benefit to the petitioners on the ground that they were not party to those writ petitions and now their claim is delayed. Once the petitioners are ready to relinquish their entire arrears as such delay will not come to their case. Even otherwise, in Saroj Kumari vs. State of Punjab, 1998(3) SCT, this Court has held that pay fixation of employee is a recurring cause of action and does not affect the rights of third party, the writ petition cannot be dismissed on the ground of delay, only arrears can be restricted, so the argument raised by the learned State counsel is meaningless, especially when the learned counsel for the petitioners are relinquishing the entire arrears. Since the petitioners are not claiming any arrears, their claim for fixation of pay in revised/corresponding pay scale cannot be denied to them on the ground of delay.

So far the argument raised by the learned State counsel that the judgment of Rajinder Paul Gautam's case(supra) applies only to employees appointed from 1967 to 1980, is misconceived on the ground that the Department of Water Supply & Sanitation, Punjab and Department of Local Government, Punjab have generalized the matter and the benefit has been extended to all the employees, even to the non-petitioners as well as to the employees whose services have been regularised recently by the Government, even otherwise, this condition has also been withdrawn by the Government in its letter dated 31.03.2011 (Annexure P-9). So far as the arguments raised by the learned State counsel that a few departments have framed rules after the issuance of letter dated 04.02.1969 and the petitioners have been appointed under the new rules, this argument is totally misconceived and if the letter dated 04.02.1969 had been implemented by all the

departments at that time, certainly, in that eventuality, the new rules would have been framed accordingly, and the employees would have received corresponding scales so, the argument raised by the learned State counsel cannot be accepted, especially when the matter has been generalized by few departments and the benefit has been released to all the employees irrespective of their date of appointments.

Accordingly, the writ petitions are allowed and the respondents are directed to implement the letter dated 04.02.1969 in toto and the pay scales of the petitioners be fixed notionally according to their qualifications category-wise in terms of aforesaid letter from category I to VI from the date of their appointments. Needful be done within a period of three months from the date of receipt of copy of this judgment. The arrears will be paid from the date of filing of the writ petitions.”

6. The facts being broadly admitted, the scale being sought as per the Circular dated 04.02.1969, the benefit of which was first released to employees of Public Health Department on the judgment of this Court in **Rajinder Paul Gautam** (supra) having attained finality and thereafter, to those of the Department to which the petitioner belongs, while implementing the judgment in **Daljit Singh** (supra), the same benefit would enure to him as well, especially there being nothing that could be offered to resist the same.

7. As a sequitur, the present petition is disposed of granting the same relief to the petitioner as in the judgment passed in **Rajinder Paul Gautam** and **Daljit Singh** (supra) within a period of three months.

(AMAN CHAUDHARY)
JUDGE

22.02.2024

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No