**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(292) **CWP No. 11252 of 2023 (O&M)**
Date of Decision : 25.11.2024

Jaspreet Rahal

...Petitioner

Versus

Punjabi University, Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ranjit Singh Kalra, Advocate for the petitioner.

Mr. H.S. Batth, Advocate for the respondent-University.

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Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that he has only been paid 25% arrears of his salary, which is admissible to him along with interest starting from July, 2021 to September, 2022.

2. Learned counsel for the petitioner submits that there is no dispute that after the pay scales were revised by the Punjab Civil Services (Revised Pay) Rules, 2021, the same was implemented by the Punjabi University, Patiala w.e.f. 01.07.2021 and the same were to be paid keeping in view the meeting of the Syndicate dated 03.11.2022 (Annexure P-3). Learned counsel for the petitioner further submits that the petitioner is not being granted the arrears and that too without any valid justification, hence, respondents are liable to be directed to grant the said benefit to the petitioner forthwith so that petitioner does not suffer any prejudice.

3. Upon notice of motion, the respondents have filed the reply, wherein, they have not denied the claim of the petitioner for the revised pay from July, 2021 till September, 2022. The only argument raised on behalf of the respondents for not releasing the revised pay is that the University is facing a financial crunch, hence, it is contended that the benefit of revised pay will be given to the petitioner in installments to be spread over till October, 2025. Learned counsel for the respondents submits that 25% of the arrears of the revised salary have already been released.

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

5. Once, the liability of the University is conceded by the counsel representing the University during the argument, the denial of the payment cannot be accepted merely on the ground that the University is facing financial crunch. Not only this, only 25% of the arrears have been paid despite the fact that more than two years have elapsed since the petitioner became entitled for the release of the revised pay.

6. As per the settled principle of law, financial crunch is not a ground to deny the legitimate right to receive the entitled salary. On one hand, the respondent-University is pleading financial crunch but on another hand, the pay scales were revised and allowed in favour of the employees. In case, the University is facing financial crunch, what was the necessity of revising of the pay scales of the employees in case, the University could not pay. Once, the highest body of the University i.e. the Syndicate has allowed the revised pay scales, the respondent-University is liable to implement the same by making payment of revised salary to the employees working therein.

7. The argument of learned counsel for the respondents that the arrears of the revised salary will be paid in installments upto October, 2025, the same cannot be accepted. The employee, has to live a dignified life on the basis of the salary for which he/she is entitled for. Once, the employee is working and is not being paid his/her entitled salary, the financial crunch cannot be brought into to deny the said benefit to the employee. The Division Bench while deciding CWP No. 14426 of 2003 titled as ***Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another, decided on 16.08.2005*** has held that keeping in view the fact that the State is a welfare State and the retired employees have no other source of income to lead a dignified life, the retiral benefits cannot be declined or withheld on account of financial difficulty. The relevant paragraph of the said judgment is as under:-

> *"8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the*

*improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of **Chameli Singh v. State of U.P. 1996(2) SCC 549** has held as under:-*

> *"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society.*
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> *xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being."*

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental *rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, Ratlam, (1980)4 S.C.C. 163,* ***B.L Wadhera v. Union of India, All India Imam Organisation and Ors. v. Union of India and Ors., Kapila Hingorani v. State of Bihar, 2003 (3) R.S.J. 42****. As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:-*

> *'6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created.'*

10. We are surprised at the insensitive attitude adopted by the respondent-Corporation in respect of its own employees/pensioners. An employer is not only to look forward to the economic growth but also to look after the welfare of its employees including health, social security and other human needs. It is the obligation of the State or its functionaries to work within the scope of their authority to combat and overcome the miseries of its employees. The Courts in such a situation are obliged to issue necessary directions to mitigate the extreme hardship of the employees involving violation of their human rights by the State or its

> *functionaries like the respondent-Corporation, which are fully controlled by it."*

8. Keeping in view the above, the respondents are directed to clear the arrears of the revised salary admissible to the petitioner within a period of three months of the receipt of copy of this order.

9. Petition is allowed in above terms.

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

November 25, 2024 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No