



CWP-12075-2024

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

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Date of decision: 22.05.2024

Joginder Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.K. Goklaney, Advocate
for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY. J (Oral)

1. The prayer made in the present petition is for quashing the order dated 30.03.2022 being illegal, arbitrary and in violation of judgment dated 26.04.2018 of this Court in Sham Singh and others vs. State of Punjab, CWP-10322-2013, which was duly implemented by the respondents vide order dated 16.10.2019.

2. Learned counsel would submit that the petitioner was appointed after the year 1980 on the technical post and was entitled to the pay scale admissible in terms of the instructions dated 04.02.1969 which has been denied on account of the fact that it was only the employees, appointed between 1967-1980, who were to be granted the same. The issue is no longer res integra, as has been decided vide judgment dated 26.04.2018 passed in a batch of petitions, with the lead case of **Daljeet Singh and Others vs. State of Punjab and Others**, CWP-7001-2013, that included 3 writ petitions i.e.

Sham Singh and others vs. State of Punjab and others CWP-10322-2013,



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Rachhpal Singh and others vs. State of Punjab and others CWP-1110-2013 and Tarlok Singh and others vs. State of Punjab and others CWP-7213-2013, filed by the employees working on technical posts in the Transport Department, Punjab, who were also appointed after 1980, as is discernible from Annexure A-1 appended with CM-8451-CWP-2024 in CWP-23850-2023. The LPA filed against the aforesaid decision was withdrawn to file review, which was dismissed. The Department implemented the said judgment vide order dated 16.10.2019, Annexure P-10, appended with CWP-7415-2024, during pendency of COCP-3492-2018, decided on 22.10.2019. The relevant paras of judgment in **Daljeet Singh** (supra) read thus:

“I have heard the learned counsel for the parties and have gone through the record very carefully.

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.”

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 judgment or cite any contrary law, however, submits that by implementing the above decision, the pay scale of few employees may get reduced, as they are already drawing higher.



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

(AMAN CHAUDHARY)
JUDGE

22.05.2024
Hemant

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