



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

CWP No. 17526 of 2017 (O&M)
Date of Decision : 02.12.2024

Dharam Pal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that petitioner is entitled for the grant of benefits of arrears and other monetary benefits in terms of the order dated 06.10.2005 (Annexure P-1) as the petitioner has been granted the benefit of retrospective promotion in the Cadre of Head Master.
2. Learned senior counsel appearing on behalf of the petitioner submits that once the benefit of retrospective promotion was granted to the petitioner, he should also be granted the benefit of arrears of salary, which has been denied as, the promotion has been granted on notional basis, which is arbitrary and illegal. Learned senior counsel further submits that a similarly situated employee, namely, Roshan Lal was granted the benefits on retrospective promotion by the Competent Court of Law, hence, the petitioner should be granted the same benefit as well.



3. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that in the present case, the petitioner was granted benefit of retrospective promotion after his name was brought in the amended seniority list. Learned counsel for the respondents submits that with regard to the claim of the petitioner that the similarly situated employee, Roshan Lal, has been given the monetary benefit on retrospective promotion, is incorrect as no arrears of salary has been granted to even Roshan Lal.

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

5. The only contention of the learned senior counsel appearing on behalf of the petitioner is that on retrospective promotion, the benefits of arrears of salary should have also been granted instead of notional benefits. The said question of law is settled by the Hon'ble Supreme Court of India in 1996 (7) SCC 533 titled as ***State of Haryana Vs. O.P. Gupta and others***, wherein, the Hon'ble Supreme Court of India has held that where the retrospective promotion has been granted on the basis of the amendment in the seniority, the actual arrears are not to be granted. The relevant portion of the judgment is as under :-

"In these appeals unless the seniority list is prepared and finalised and promotions are made in accordance with the Rules on the basis of the above seniority list, the question of entitlement to work in the promotional posts does not arise. Consequently, the payment of arrears of salary does not arise since, admittedly the respondents had not worked during that period. The High Court was, therefore, wholly illegal in directing payment of arrears of salary.

The order of the High Court accordingly is quashed."



6. In the present case, the petitioner has only been granted the benefit of retrospective promotion after his name was inserted in the seniority list by amendment, hence, keeping in view the judgment of the Hon'ble Supreme Court of India in ***O.P. Gupta's case(supra)***, the benefits of arrears cannot be granted.

7. The assertion that the similarly situated employee has been granted the benefit of arrears has already been denied by the respondents, wherein, it has been mentioned that no actual benefit of arrears has been given to any employee, who was promoted with retrospective effect after the amendment of the seniority.

8. Further, the respondents have further mentioned that as per the order passed by the Co-ordinate Bench in CWP No. 18042 of 2011, wherein the petitioner was also party, the petitioner has only been granted the notional promotion in the Cadre of Principal also without there being any actual arrears, hence, the same Rule will also apply in the case of grant of retrospective promotion to the post of Head Master.

9. Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

10. Dismissed.

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

December 02, 2024

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No