

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

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CWP-18583-2017

Date of decision: 03.04.2024

Karnail Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Nitesh Singla, Advocate
for the petitioners.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY. J (Oral)

1. The prayer in the present Civil Writ Petition under Articles 226/227 of the Constitution of India, is for quashing the order dated 15.06.2017, Annexure P-9 and directing the respondents to protect the pay scale of the petitioners as on 01.01.1996 along with all consequential relief.

2. Learned counsel contends that the petitioners were promoted as Junior Assistants w.e.f. 01.01.1996 in the pay scale of Rs.1500-2700, which was further revised to Rs.5000-8100 vide Notification dated 16.01.1998, Annexure P-1. However, vide Notification dated 19.05.1998, Annexure P-2, an anomaly was created wherein employees who were designated the said post after 01.01.1996 were entitled to the pay scale of Rs. 4400-7000, whereas officials who were already working as Senior Clerk and Junior Assistant as on the said date were to continue in the previous bracket, i.e., Rs.5000-8100, it being protected as a measure personal to them. Thus, they were aggrieved on not being granted the said pay scale on account of the fact that promotion was accorded on 01.01.1996 and not prior thereto. It is submitted that the issue, as

involved in the present case, is covered by the judgment of **Anil Kumar and**

others vs. State of Punjab and others, CWP-22422-2010, decided on 16.05.2012, against which LPA-1729-2012, filed by the State, was also dismissed on 05.02.2014 and which stood upheld by the Hon'ble Supreme Court in SLP-21590-2014, decided on 07.01.2015 and the pay of the petitioners therein, who were in service on 01.01.1996 was protected, based on which this Court has also allowed CWP-23551-2019 on 20.12.2022 filed by **Raj Kumar Mahajan vs. State of Punjab and others**, the relevant paras whereof read thus:-

“3. Learned counsel appearing for the petitioner would argue that case of the petitioner is squarely covered by the judgment passed by this Court in CWP No.22422 of 2010 titled as Anil Kumar and others Vs. State of Punjab and others decided on 16.05.2022 and LPA No.1729 of 2012 titled as State of Punjab and others Vs. Anil Kumar and others decided on 05.02.2014, which stood upheld by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.21590 of 2014 decided on 07.01.2015. Pay of the petitioners therein, who were in service on 01.01.1996 was protected and therefore, being similarly situated, petitioner is also entitled to the similar relief.

4. Learned counsel appearing for the respondent-State would submit that as per notification dated 19.05.1998 designation and revised equivalent of the unrevised pay scale of only those officials was protected, who were working as Senior Clerk and Junior Assistant as on 01.01.1996 and since, the petitioner was placed as Junior Assistant on 11.03.1996, he would not be entitled for the said relief.

5. I have heard learned counsel for the parties and have perused the paper book. The petitioners in CWP No.22422 of 2010 were also appointed/placed in the cadre of Junior Assistant after 01.01.1996 and the Single Bench vide judgment dated 16.05.2012 held that once the petitioners were in office on 01.01.1996, they would be entitled to the protection of their pay. The said judgment was challenged by the respondent-State in intra court appeal bearing LPA No.1729 of 2012 wherein the Division Bench vide judgment dated 05.02.2014, while upholding the finding rendered by the Single Bench, restricted the fixation of notional pay and arrears to 38 months prior to the date of filing the writ petition, considering the fact that private respondents approached the Court after lapse of long time. The judgment dated 05.02.2014 passed by the Division Bench was also upheld by the Hon'ble Supreme Court.

6. Keeping in view the aforesaid facts and circumstances,

the petitioner herein shall also be entitled to protection of pay sale of Rs.5000- 8100 w.e.f. 11.03.1996, however, his right to fixation of notional pay and arrears shall be restricted to 38 months prior to the date of filing of the writ petition. To the above, no objection has been raised by the petitioner.
7. Consequently, the order dated 02.08.2018 is set aside and the instant writ petition stands disposed of in above terms.”

3. Learned State counsel despite his best efforts was unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Anil Kumar** and **Raj Kumar Mahajan** (supra).

(AMAN CHAUDHARY)
JUDGE

03.04.2024
Hemant

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