

**CWP-23807-2016 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(208)****CWP-23807-2016 (O&M)****Date of Decision : November 28, 2024****Lakhwinder Kaur and others****.. Petitioners****Versus****State of Punjab and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Gaurav Sharma, Advocate, for the petitioners.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioners is that after the petitioner had joined the service, keeping in view the qualification which the petitioners possessed, they were granted the increment which increments the petitioners continued to draw till the date of their retirement but while fixing the pensionary benefits, the said increments were ignored vide impugned order dated 22.04.2016 (Annexure P-10) so as to cause prejudice to the petitioners.

2. The prayer of the petitioners is that the pensionary benefits of the petitioners should be computed keeping in view the last pay drawn by the petitioners at the time of their retirement and the increments which the petitioners continued to draw upto the date of their retirement and were never withdrawn, should be taken as part and parcel of the last pay drawn for computing the pensionary benefit.



3. Learned counsel for the petitioners submits that after the filing of the present petition, the relief claimed has already been extended in favour of petitioners No.1 and 12 but though the other petitioners are also similarly situated, the said benefit has not been extended to them, which is causing prejudice and also amounts to discrimination between the similarly situated employees.

4. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that the petitioners were wrongly granted the increments though, it is conceded that till the date the petitioners retired, they continued to get the said increment. As per the respondents, the increments which were granted to the petitioners wrongly hence, have been ignored while computing the pensionary benefits of the petitioners.

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

6. The only question which arise in the present petition is whether, the salary which the petitioners were drawing at the date of their retirement is to be taken into account for computing the pensionary benefits or not and the action of the respondents in ignoring the increments granted to the petitioners though the same were drawn by the petitioners upto the last date of their service is valid or not.

7. Once, the respondents have conceded that the increments were granted to the petitioners and the petitioners continued to draw the same till the date of their retirement, ignoring the said increment while computing the pensionary benefits, is arbitrary and illegal. In case, any of the benefit was wrongly extended to the petitioners, the same should have been withdrawn

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by giving due opportunity of hearing while the petitioners were in service. Once, the increments which have been ignored for computing the pensionary benefits, were never withdrawn upto the date of retirement or even thereafter, the same has to be treated as part and parcel of the last pay drawn of the petitioners.

8. Even otherwise, the benefits which the petitioners are seeking in the present petition, have already been granted in favour of petitioners No.1 and 12.

9. On being asked to point out the differentiating fact between the other petitioners despite the fact that the opportunity was given to the respondents to justify the same, no justification has been brought on record. In the absence of any justification or the differentiating fact between the petitioners especially when petitioners No. 1 and 12 have already been granted the relief, non-grant of the same to the other petitioners amounts discrimination.

10. Keeping in view the above, the present writ petition is allowed. The benefit which has been extended in favour of petitioners No. 1 and 12, be extended in favour of the other petitioners as well in the same manner. Let the order be complied with within a period of eight weeks of the receipt of copy of this order.

11. Civil miscellaneous application pending if any, also stands disposed of.

November 28, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No