

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-22609-2017 (O&M)
Date of decision: 30.04.2024

Jarnail Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sudhir Kumar Pandey, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for setting aside the order dated 01.09.2017 passed by respondent No.2, whereby respondent No.2 dismissed the claim of the petitioner for the promotion of Senior Superintendent Grade-II.
2. Learned counsel for the petitioner submits that in the written statement, the order dated 01.09.2017, setting aside of which was sought in the present petition, was stated to be subject to review upon the final outcome of CWP-24334-2015 titled as **Avtar Singh vs. State of Punjab** and other connected civil writ petitions, which now stands disposed of vide judgment dated 23.03.2023, in view of the judgment passed in the case of Kapil Dev and Others vs. The State of Punjab and Others in CWP-4286-2000 and other connected cases, decided on 25.01.2023. The relevant paras of **Avtar Singh** (supra) read thus:

“7. This issue has already been addressed in **Kapil Dev's case (supra)**, which is extracted as under:-
12. Now, the crucial question arises as to “What is the appropriate relief which should be granted to the parties

in the peculiar facts of the case?” As already noticed, majority of the petitioners as well as the private respondents, on attaining the age of superannuation, have already retired. In Saroj Rani’s case (supra), the Supreme Court directed that those incumbents who have worked on the post of Assistants/Senior Assistants on account of the promotional orders in their favour and subsequently, they have to be reverted or have been reverted back to their original post, then, the salary or the consequential amount paid to them shall not be recovered. Similarly, if any such employee gets promotion to the post of Assistant/Senior Assistant from an earlier date, he/she shall not be entitled to any arrears of salary. Thus, akin to the facts in which the interim order was passed by the Supreme Court, the petitioners have worked on the post of Assistant/Senior Assistant and have already retired in the present case. Hence, it would not be appropriate to permit the State of Punjab to effect any recovery from them at this stage. The question is “Whether the State should be permitted to refix their salary which would result in reduction of their pensionary benefits?” In the facts of the case, this Court is of the considered view that such a course of action shall not be a viable solution.

13. Keeping in view the aforesaid facts, it is ordered that neither there shall be any recovery on account of change in the date of promotion nor the private respondents who have not worked on the posts shall be entitled to any such salary. However, they shall be granted the notional consequential reliefs including the retiral benefits, which shall be paid to them. In other words, no recovery shall be made from the retirees as a consequence of this judgment. Further, no arrears of salary for the period for which the private respondents, in fact, never worked shall be payable to them. However, the said period shall be counted notionally for the purpose of enhancing their retiral/pensionary benefits, if any. This exercise should be completed, positively, within a period of three months from today.”

8. Keeping in view the aforesaid facts and discussion, this Court is of the view that the ends of justice will be met if the writ petitions are disposed of in the same terms.”

3. Learned State counsel has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

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

(AMAN CHAUDHARY)
JUDGE

30.04.2024
M.Kamra

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