

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CWP-9721-2016

Date of Decision: 12.02.2024

Surinder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Jigyasa Tanwar, Advocate, for the petitioner.

Mr. T. P. S. Walia, AAG, Punjab.

None for respondent No.3.

NAMIT KUMAR, J.(ORAL)

1. The present writ petition has been filed by the petitioner seeking a writ of Mandamus directing respondent Nos.1 and 3 to release/grant due benefits/increments along with arrears and interest @ 18% per annum there upon to the petitioner, on his promotion to the post of Executive Engineer since December, 1998 and thereafter, on the post of Superintendent Engineer from September, 2007 and grant due revision of retiral benefits and for seeking grant of arrears of difference of pay.
2. The claim raised in the present petition by the petitioner is for grant of increment on his designation as Superintendent Engineer in his own pay scale, who was working as Corporation Engineer. The said order reads as under:-

*“Punjab Govt.
Local Govt department
(L.G.-1 branch)*

ORDER

*Sh.Surinder Singh, Executive Engineer (Electronics/Computer)
Municipal Corporation, Ludhina is designated as Superintending Engineer in*

his own pay scale.

Dated 12.09.07

*D. S. Bains
Principal Secretary, Govt. of Punjab
Department of Local Govt.”*

3. Learned counsel for the petitioner submits that since the petitioner was designated as Superintendent Engineer, therefore, he is entitled for the benefit of annual increment.

4. *Per contra*, the learned State counsel submits that firstly the present writ petition is liable to be dismissed on the ground of delay and laches and also constructive *resjudicata* as the petitioner had earlier approached this Court by filing CWP No.9375 of 2015, wherein the following reliefs were claimed:

“(i) count the service rendered by the petitioner in the department of Punjab Technical Education Department for the purpose of grant of Pension & retiral benefits;

(ii) grant proficiency step up under the “ACP” scheme on completion of 4, 9 and 14 years of service from the date of joining the Municipal Corporation Service on deputation as Electronics Engineer and make payment of difference of revised pay from due date to date of till the date of disposal of the writ petition’

(iii) decide the representation dated 17.04.2013 (Annexure P-5) submitted by the petitioner:

(iv) direction to respondent No.3, Municipal Corporation Ludhiana to make payment of all the above referred benefits along with interest @ 18% per annum on the whole amount calculated from the date the petitioner left the Govt. department and joined the Municipal Corporation Ludhiana on deputation to the actual date of payment.”

5. The said writ petition was disposed of by this Court vide order dated 13.05.2015 and a direction was issued to treat the writ petition as

representation of the petitioner and if it is found that the case of the petitioner is covered by the judgment dated 12.08.2010 passed in **CWP No.7305 of 2009** titled **Kulbhushan Rai Vs. State of Punjab and Others**, the decision be taken within 3 months and the accrued benefits be released in next two months. He further submits that petitioner retired on attaining the age of superannuation on 30.04.2008 and the instant petition has been filed after 8 years from his retirement and therefore, the same suffers from delay and laches. He further submits that since it was not a regular promotion, therefore, no increment is admissible to him.

6. Keeping in view the above facts that the petitioner was never promoted to the post of Superintending Engineer and mere designation on the said post does not confer any right to claim increment. No rules/instructions have been shown for claiming the abovesaid benefit. Even otherwise, the present writ petition suffers from the vice of constructive *resjudicata* as the relief claimed in the present writ petition, was available to the petitioner when he filed earlier CWP No.9375 of 2015. Further, there is inordinate delay of more than 8 years on the part of the petitioner in approaching this Court by filing the present writ petition in the year 2016 claiming the benefit of increment on account of grant of designation as Superintending Engineer which was issued on 12.09.2007.

5. In view of the above, no case is made out to grant the relief as claimed in the present writ petition and the same is dismissed as such.

(NAMIT KUMAR)
JUDGE

12.02.2024
anil

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