



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217)

CWP No. 4493 of 2017 (O&M)
Date of Decision : 13.11.2024

Sushil Kumar and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nitesh Singla, Advocate for the petitioners.
Mr. Swapan Shorey, Deputy Advocate General, Punjab.
Ms. Jasvir Kaur, Advocate for respondent No. 5.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that petitioners are entitled for the benefit of judgment passed in CWP No. 22422 of 2010 titled as **Anil Kumar and others Vs. State of Punjab and others**, decided on 16.05.2012, which judgment has already been upheld in LPA No. 1729 of 2012.
2. Learned counsel for the petitioners submits that vide order dated 14.02.2017 (Annexure P-7), the said claim has been rejected by the respondents. Learned counsel for the petitioners further submits that though, in the order dated 14.02.2017 (Annexure P-7) the respondents have noticed that the petitioners are claiming the benefit under the judgment in **Anil Kumar and others (supra)**, but the same has not been discussed while declining the relief.



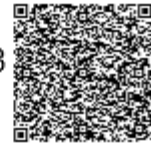
3. Learned counsel for the petitioners submits that by totally cryptic and non-speaking order, the claim of the petitioner has been rejected as the only sentence mentioned in the impugned order is that the said judgment is not applicable in the present case without noticing the reasons for the same.

4. Learned State counsel submits that the claim of the petitioners has been considered keeping in view the judgment in **Anil Kumar and others (supra)** but it has been mentioned in the order that the same is not applicable, hence, no benefit is liable to be extended and the order dated 14.02.2017 is not cryptic and non-speaking.

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

6. Once, a claim has been raised by the petitioners that the employees who were promoted as Junior Assistant on 01.01.1996, have been granted the benefit of protection of their pay keeping in view the order passed in **Anil Kumar and others (supra)**, nothing has come on record as to how the respondents have reached the conclusion that the said judgment is not applicable to the present petitioners. In order to arrive at a conclusion, the respondents are suppose to pass a speaking order giving the reasons for arriving at a particular conclusion. In the impugned order, no reason has been given as to how, the claim of the petitioners is not covered by the judgment in **Anil Kumar and others (supra)**. The said speaking order is totally cryptic and non-speaking and is accordingly set-aside.

7. The respondents are directed to consider the claim of the petitioners afresh in light of the judgment in **Anil Kumar and others (supra)**.



In case, any Junior Assistant who was promoted on 01.01.1996, has been granted the benefit of protection of pay under the judgment in ***Anil Kumar and others (supra)***, the same be extended to the petitioners also, otherwise due reasons be mentioned in the speaking order for not accepting the claim of the petitioners along with due reasons as to how the judgment in ***Anil Kumar and others (supra)*** is not applicable in the facts and circumstances of the present case.

8. Let, fresh order be passed within a period of eight weeks from the date of receipt of copy of this order.
9. Present petition is disposed of in above terms.
10. Pending miscellaneous application, if any, also stands disposed of.

November 13, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No