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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-17809-2023 (O&M)
Date of decision : 06.11.2025

HARSUKHWINDER SINGH AND OTHERS

..... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Ms. Jasmine, Advocate for
Mr. Prateek Sodhi, Advocate
for the petitioners.

Mr. Satnam Preet Singh, DAG, Punjab.

Deepinder Singh Nalwa, J. (Oral)

1. In the present writ petition, the petitioners are challenging the order dated 25.07.2022 (Annexure P-11) whereby, the claim of the petitioners for grant of retiral benefits on the basis of the last pay drawn by them while working on the higher post of Block Primary Education Officer (BPEO) on officiating capacity, has been rejected.

2. The brief facts of the case are that the petitioners were working on the post of Central Head Teachers in the Department of Education, Punjab. At the time of their retirement, the petitioners were working on the post of BPEO on officiating basis. After attaining the age of superannuation,

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the petitioners, along with other similarly placed persons, filed a writ petition before this Court, being CWP No.16930 of 2014, seeking directions to the respondents to grant retiral benefits taking into consideration the pay scale of the post of BPEO, which they were drawing while working on officiating capacity.

3. The above said writ petition was disposed of by this Court vide order dated 21.08.2014 with a direction to the respondents to decide the representation/ legal notice submitted by the petitioners by passing a speaking order.

4. In pursuance to the above said order passed by this Court, the claim of the petitioners was partly allowed and the petitioners were held entitled for grant of benefit of minimum pay scale of the post of BPEO only for the period during which they have discharged the duties and responsibilities of the higher post.

5. In regard to the claim for grant of retiral benefits by taking into consideration the last pay drawn while working on officiating capacity on a higher post is concerned, a committee was constituted by the respondents to look into the matter. The committee rejected the claim, holding that the last pay drawn on account of working on officiating capacity on higher post could not be taken into account for the purpose of fixation of retiral benefits.

6. Aggrieved against the above said action of the respondents, the petitioners, along with others similarly placed persons, filed a Civil Writ petition before this Court being CWP No.6505 of 2018.



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7. It transpires that during the pendency of the above said writ petition, similar relief was granted by this Court in **CWP No.17358 of 2015 titled 'Jagjit Singh and others Vs. State of Punjab and others' decided on 09.09.2016** (Annexure P-7) wherein, the respondents were directed to fix the pension and other retiral benefits on the basis of last pay drawn by them.

8. In view of above, the earlier writ petition filed by the petitioners was disposed of by this Court with a direction to the respondents to consider and decide the case of the petitioners within a period of six weeks by passing a speaking order.

9. In compliance of the said direction, the respondents passed an order dated 25.07.2022 (Annexure P-11) vide which, the claim of petitioners for taking into consideration the last pay drawn while working on a higher post on officiating capacity for the purpose of retiral benefits was rejected.

10. A perusal of the order dated 25.07.2022 (Annexure P-11) would show that the respondents, while rejecting the claim of the petitioners, had taken into consideration the judgment passed by the Hon'ble the Supreme Court of India in **Writ Petition (C) No.300 of 2016 titled K. Sreedhar Rao Vs. Union of India through Secretary, Ministry of Law and Justice, New Delhi', decided on 06.09.2019.**

11. Aggrieved against the above said order dated 25.07.2022 (Annexure P-11) passed by the respondents, the petitioners have filed the present writ petition for direction to the respondents to calculate the retiral benefits of petitioners on the basis of last pay drawn by the petitioners while working on the higher post of BPEO on officiating capacity.



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12. Learned counsel appearing on behalf of the petitioners submits that as the petitioner was drawing pay of BPEO at the time of their retirement, therefore, last pay drawn by them has to be taken into consideration for the purpose of calculating retiral benefits.

13. Learned counsel appearing on behalf of the petitioners relies upon the judgment passed by the Co-ordinate Bench of this Court in **Jagjit Singh and others's** case (supra) (Annexure P-7) and **CWP-6506-2018 titled 'Harsukhwinder Singh and others Vs. State of Punjab and others', decided on 15.03.2018** (Annexure P-8).

14. Learned counsel appearing on behalf of the respondents submits that in fact the respondents have rightly passed the impugned order wherein, it has been held that the retiral benefits of the petitioners cannot be fixed on the basis of the last pay drawn while working on an officiating capacity on the post of BPEO. It is the case of learned counsel for the respondents that pay of substantive post/rank at the time of retirement has to be taken into consideration for the purpose of retiral benefits. Reliance has been made to the judgment passed by the Co-ordinate Bench of this Court in **CWP No.7317 of 2022 titled 'Karnail Singh Brar Vs. State of Punjab and others', decided on 18.05.2022**.

15. I have heard learned counsel for the parties and have gone through the case file.

16. The issue involved in the present writ petition is as to whether an employee, who at the time of retirement is holding charge of a higher post on an officiating basis and is drawing the pay of higher post, is entitled to



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benefit of retiral benefits by taking into consideration the last pay drawn of higher post or pay based on substantive post/rank.

17. The above said issue was considered by the Co-ordinate Bench in **Karnail Singh Brar's case** (supra).

18. A perusal of the above said judgment of the Co-ordinate Bench would show that the judgment in **CWP No.17358 of 2015 titled 'Jagjit Singh and others Vs. State of Punjab and others' decided on 09.09.2016**, relied by learned counsel appearing on behalf of the petitioners was duly considered by the Co-ordinate Bench. Relying on the judgment passed by Hon'ble the Supreme Court in case **K. Sreedhar Rao's case** (supra), the Co-ordinate Bench held that the employees are not entitled to fixation of their pensionary benefits on the basis of the last pay drawn while working on a current duty charge. Relevant extract of the judgment is reproduced below:-

"It is correct that the Coordinate Bench of this Court while passing the order dated 09.09.2016 in CWP No.17358 of 2015 held that the last drawn wages is to be taken into account while computing the pensionary benefits even if the said last drawn wages is while working on current duty charge on a higher post. But the same question came up for consideration before the Hon'ble Supreme Court of India in Writ Petition (C) No.300 of 2016 decided on 06.09.2019 titled K. Sreedhar Rao versus Union of India through Secretary, Ministry of Law & Justice, New Delhi, wherein, the Hon'ble Supreme Court held that an employee is only entitled for fixation of the pensionary benefits keeping in view the substantive rank held and not that of the current duty charge. The relevant paragraph 7 of the said judgment reads as under:-

"Now so far as the reliance placed upon the decision of this Court in the case of Syad Sarwar Ali (supra) by the learned counsel appearing on behalf of the respondent is concerned, learned



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counsel appearing on behalf of the petitioner is right to some extent that the said decision is distinguishable on facts.

It is true that in the said case, the respondent-Judge retired as a puisne Judge and not as an Acting Chief Justice. However, in the said decision, it is specifically observed that the substantive portion of Rule 2 read with Rule 7 of the First Schedule deals with the calculation of the pension payable to a Judge during his judicial career and that in computing the pension, the time which he had spent as a Judge or Acting Chief Justice or Chief Justice is taken into consideration. It is further observed by this Court in the aforesaid decision that the rules containing First Schedule are conscious of the fact that the retiring incumbent may be a Judge or a Chief Justice or may have acted as an Acting Chief Justice for a period of time where for the purpose of calculating the quantum of pension, the period spent by a Judge as an Acting Chief Justice is taken into consideration for the purpose of fixing the ceiling. It is further observed that however, an Acting Chief Justice, who is one appointed under Article 223 of the Constitution is not equated with the Chief Justice appointed under Article 217 of the Constitution. The above observation clinch the issue. Even otherwise, we have considered the question posed independently and are of the opinion that the petitioner is not entitled to the pensionary benefits including the ceiling in the pension which may be available to a retired Chief Justice and as observed hereinabove, only that period of service rendered by him as an Acting Chief Justice, i.e., 14 months service as an Acting Chief Justice is required to be considered as service rendered as a Chief Justice for the purpose of computation of pension under Rule 2/as per Rule 2 of the Part I of the First Schedule of the 1954 Act."

Keeping in view the fact that the Hon'ble Supreme Court of India in K.Sreedhar Rao (supra) has taken a view contrary to the view taken by the Coordinate Bench of this Court in Jagdish Singh (supra) the view taken by Hon'ble Supreme Court will prevails over the view taken by the Coordinate Bench of this Court in Jagdish Singh (supra).

Keeping in view the above, once a question of law has been settled by Hon'ble Supreme Court in K.Sreedhar Rao (supra), the same is to be made applicable upon all employees and when the said settled principle of law



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is applied in the facts and circumstance of the present case, petitioner is not entitled for fixation of his pensionary benefits on the last drawn pay while working on current duty charge. Petitioner's pensionary benefit could only be fixed while taking into consideration his substantive rank. No infirmity can be found in the impugned order (Annexure P-1) keeping in view the settled principles of law mentioned hereinbefore. No ground to interfere in the impugned order is made out.

Dismissed.”

19. It has also been brought to the notice of this Court that aggrieved against the above said judgment, LPA was filed before this Court being **LPA No.621 of 2022 titled 'Karnail Singh Brar Vs. State of Punjab and others,** and the same was dismissed on 12.02.2024.

20. The learned counsel appearing on behalf of petitioner has not brought to the notice of this Court any rules/instructions to show that the last drawn pay of an employee while working on a higher post on officiating capacity has to be taken in consideration for calculating retiral benefits.

21. In view of the facts of the case and ratio laid down by this Court in **Karnail Singh Brar's case** (supra), which stands affirmed by the Division Bench of this Court, this Court finds no infirmity or illegality in the impugned order dated 25.07.2022 (Annexure P-11). As such, the present writ petition is dismissed.

22. Pending application(s), if any, shall also stand(s) disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

06.11.2025

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No