

2025:PHHC:054872-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-2211-2023 (O&M)

Date of decision:28.04.2025

BAL KRISHAN MEHTA

.....Appellant

Versus

STATE OF PUNJAB & ANR.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Raman Sharma, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

SUDHIR SINGH, J.

Challenge in the instant intra Court appeal is to the order dated 10.10.2023 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the action of the respondents in restricting the benefit of two increments granted to him from the period 24.09.1982 to 01.01.1986.

3. Learned counsel appearing for the appellant has vehemently argued that the appellant was granted two increments in lieu of his past military service, but the said increments had wrongly been merged with his salary after coming into force of the Central

Civil Services (Revised Pay) Rules, 1986. It is also argued that the increments so granted could not have been merged with the salary of the appellant.

4. On the other hand, learned State counsel submits that once the appellant had received the entire amount of gratuity along with interest, he is not entitled to the grant of increments as sought for. It is further argued as per the settled law, the said increments granted to an employee would stand merged with the pay admissible to him at the time of the revision of the pay scale. Reliance is placed upon the judgment of the Hon'ble Supreme Court in **P.S. Sawhney Vs. R.K. Aggarwal & Anr.**, (1988)1 SCC 353.

4. As would emerge from the record, the appellant had earlier filed CWP-2993-2013, which was disposed of by this Court on 12.02.2013 with a direction to respondent No.2 to consider and decide the legal notice of the appellant. The respondent-authorities had passed a speaking order dated 21.11.2013 granting the appellant benefit of two increments for the service rendered by him during emergency in the Indian Air Force, subject to the condition that he should deposit the amount of gratuity along with interest in the Government Treasury, which he had received from the previous Department.

5. A perusal of the order dated 12.10.2018, passed in the writ petition, would show that the learned counsel for the appellant had made a statement before the Court that in case the respondents did not want to release him the two additional increments, the amount of gratuity of Rs. 1,08,922/- be refund to him with interest from the date

of deposit till the date of payment. Thereafter a cheque of Rs.1,46,792/- was handed over to the appellant on 14.07.2022. The learned Single Judge has noticed that the counsel for the appellant made a subsequent statement that the appellant was ready to deposit back the said amount to the State Government, in case the benefit of the two increments was granted to him. However, it was observed by the learned Single Judge that the appellant could not be allowed to blow hot and cold at the same time and once, he had withdrawn the amount of gratuity paid to him during Armed Forces Services along with interest from the State Authorities, the State authorities were no more bound to give him the benefit of increments. It was accordingly held that the increments which the appellant had received for the period 1982 to 1986 were also required to be withdrawn and his pay was required be fixed accordingly. The relevant part of the order of the learned Single Judge, would read as under:-

“6. The petitioner coming before this Court cannot be allowed to blow hot and cold at the same time. Once he has withdrawn the amount of gratuity paid to him during Armed Forces Services along with interest from the State authorities, the State authorities are no more bound to give him the benefit of the increments.

7. The increments which the petitioner received for the period from 1982 to 1986 are also required to be withdrawn. His pay fixation would

also be required to be done accordingly. The approach of the petitioner is deprecated.

8. This Court would not allow an individual to take benefit also of the lump sum amount which he has received from the State Government, and further also claim benefits which are no more available to him.”

6. We find that once the appellant had accepted the gratuity amount along with interest deposited by him at the time of his retirement from the previous Department, it is not open to him to agitate his claim as regards the claim of two increments.

7. We do not find any illegality or perversity in the order passed by the learned Single Judge, which may warrant interference by this Court. Consequently, the present appeal is dismissed.

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

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

28.04.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No