



CWP-23759-2018

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

Serial No. 211

**CWP-23759-2018
Decided on:13.01.2025**

Lal Singh Yadav

. . . Petitioner

Versus

State of Haryana and others

. . Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. P. R. Yadav, Advocate and
Mr. Praveen Kumar, Advocate
for the petitioner.

Mr. Aakash Singla, Additional Advocate General, Haryana.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the memo dated 25.03.2015, Annexure P-3, to the extent it stipulates “other Headmasters will not be entitled to any arrears.” Further, a writ of *mandamus* has been sought directing the respondents to release the arrears of revised pension to the petitioner with all consequential benefits from the date the same became due in terms of order dated 01.12.2010 passed by this Court in CWP-8082-2001 titled *R. K. Verma and others v. State of Haryana and another*.

2. The facts of the case in brief are that the petitioner has worked in the respondent-Department of Secondary Education as Headmaster from 02.11.1989 till his superannuation from service on 31.07.1999. The



respondents revised pay scales of the post of Headmaster to ₹6500-10500 with effect from 01.01.1996. As this revised scale was same as that of the feeder cadre post of Master/Mistress, the Government constituted an anomaly Committee and on its recommendations the Headmasters' scale was revised to that of ₹7500-12000 with effect from 01.08.2000. The affected Headmasters and Headmistresses approached this Court by filing different writ petitions claiming the revised pay scales with effect from 01.01.1996, the date when the anomaly arose, instead of 01.08.2000. The petition was decided vide a common judgment in *R.K. Verma* case (*supra*) by holding as under:

In view of the ratio of law laid down by the Full Bench of this Court, prayer made by the petitioners in these two writ petitions is accepted; order Annexure P-3, to the extent it grants revised pay scale to Headmasters/Headmistresses with effect from 1.8.2000, is quashed and direction is issued to the respondents to grant revised pay scale of Rs.7500-12000 to the petitioners with effect from 1.1.1996, the date when the anomaly arose. However, it is made clear that the respondents shall remove the anomaly, and fix the pay of the petitioners notionally with effect from 1.1.1996, on which date it arose. However, the arrears of pay are restricted to 38 months from filing of the writ petition. ...

2.1 The judgment attained finality and the Directorate, School Education, vide memo dated 25.03.2015, decided to generalise the order contained in the judgment, dated 01.12.2010, and give the benefit of revised pay scale to all the Headmasters (High Schools) notionally with effect from 01.01.1996. The memo reads as under:

In the light above facts, matter has been re considered and it has been decided to implement the order



dated 1-12-2010. Headmasters (High Schools) are hereby granted the pay scale of Rs. 7500-12000 w.e.f. 1-1-96 notionally and actually from prospective effect. However the arrears of pay for petitioners only are restricted to 38 months from the date of filing of the writ petition. The other Head Master will not be entitled to any arrears. Concurrence of Finance Department has been obtained vide UO NO 6-76-2010 4PR dated 15-08-2015 in this regard.

As while generalising the order, the Department had not given the benefit of arrears to Headmasters like the petitioner, he submitted a representation as well as legal notice against it claiming the arrears; the same were however not acceded to. Also, the respondents vide letter dated 23.12.2016, Annexure P-9, conveyed him that he was not entitled to get revised pension on the basis of memo, dated 25.03.2015, as he had not received arrears of salary in terms therewith. During pendency of the petition, however, the respondents reconsidered the matter and revised his pension in view of the fact that he had been held entitled to revised pay scales of ₹7500-12000 notionally with effect from 01.01.1996, and issued the revised pension payment order to that effect dated 29.11.2022, Annexure R-1.

2.2 In view thereof, only the claim to grant of arrears of pension to the petitioner survives for consideration.

3. Learned counsel for the petitioner contended that once the respondents have decided to generalise the order, dated 01.12.2010, passed in case of similarly placed employees in *R. K. Verma* case (*supra*) holding them entitled to the arrears of pay for thirty-eight months from the date of filing of the petition, the same cannot be declined to the petitioner. Doing so is



of arrears contained in the impugned memo, dated 25.03.2015, illegal. In this regard, he has placed reliance upon the judgment passed by the Supreme Court in *Rushibhai Jagdishbhai Pathak v. Bhavnagar Municipal Corporation*, (2022) 18 SCC 144.

4. *Per contra*, learned State counsel contended that the petitioner cannot claim arrears of salary as he never challenged the earlier decision of the Government regarding the revision of pay scales of Headmasters equal to that of Masters with effect from 01.08.2000. It was challenged by other Headmasters who were serving in the Department and their writ petition was allowed vide judgment and order dated 01.12.2010. It is to extend the same benefit to other Headmasters as well, that Government issued the memo dated 25.03.2015 and the petitioner has been released due benefits in terms therewith including the revised pensionary benefits. He has been a fence-sitter, awaiting outcome of the case filed by other Headmasters and cannot be given the benefit of arrears as has been given to the ones who approached this Court earlier.

5. Submissions made by learned counsel for the parties have been considered.

6. It remains undisputed on the record that the respondents initially revised pay scales of Headmasters to ₹6500-10500 with effect from 01.01.1996, and by removing the anomaly that was noticed, these scales were enhanced to ₹7500-12000 but from 01.08.2000. The case to grant revised pay scales with effect from 01.08.2000, instead of 01.01.1996, filed by other Headmasters was allowed by this Court in *R. K. Verma* case (*supra*) vide judgment dated 01.12.2010; it was held that the benefits of revised pay scale



would be given to the petitioners therein with effect from 01.01.1996, however, arrears would be restricted to thirty-eight months from the date of filing the writ petition(s). It is also a fact undisputed that the petitioners therein were serving Headmasters and Headmistresses in the Department. They were held entitled to restricted arrears of pay pursuant to grant of revised pay scale with effect from 01.01.1996 on the doctrine of delay and laches. Accordingly, at the time of generalising the order, vide memo dated 25.03.2015, the Government decided not to give arrears to other Headmasters, like the petitioner. Arrears of pay in terms of the judgment in *R. K. Verma* case *ibid.*, cannot be claimed by the petitioner herein as he is not one of the petitioners in that case. He never approached the Court, in fact. And has been given the revised pay scale based upon the subsequent memo issued by the Government generalising the benefit to other Headmasters notionally with effect from 01.01.1996. This has been done keeping in view the law laid down in *State of Uttar Pradesh and others v. Arvind Kumar Srivastava and others*, (2015) 1 SCC 347, holding when a particular set of employees has been granted relief by the Court, all identically situated should be treated alike by extending them the benefit. The Court also held that the persons who failed to approach the Court within time and woke up after a long delay to challenge the action only because their counterparts had succeeded, could not claim the benefit extended to the counterparts. The observations in this regard are as under:

22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and



would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

7. The judgment relied upon by the learned counsel for the petitioner in *Rushibhai Jagdishbhai Pathak* case (*supra*) does not advance his case in any manner. In the facts of that case, the Division Bench of Gujarat High Court, while accepting the appeal filed by the respondent-Corporation against the judgment of learned Single Judge, granted arrears of pre-revised pay scale from the date of judgment passed by learned Single Judge. This was held to be not in consonance with the settled law laying down that only the date of filing of the writ petition is relevant for examining the question of delay and laches or limitation, which cannot run from the date of decision of

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therein were held entitled to arrears in the pre-revised pay scale for three years prior to the date of filing of the writ petitions. Such question does not arise for consideration in the instant case, as the petitioner has claimed the benefit on the basis of office order dated 25.03.2015, generalising the benefit of revised pay scale notionally with effect from 01.01.1996 as it has been given to the petitioners in *R. K. Verma* case (*supra*), wherein he is not a party.

8. In view of the discussion, finding no merit in the petition, it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

13.01.2026
Mehak

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No