
(2011) 08 SHI CK 0064
In the High Court Of Himachal Pradesh
Case No : CWP No. 4911 of 2009

Gian Singh and Others

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 11-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0064

Hon'ble Judges : Kurian Joseph, C.J.;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioners are seeking judicial review of the judgment dated 5.3.2003 passed by the learned Himachal Pradesh Administrative Tribunal in O.A. No. 2363/1998. O.A. No. 2363/1998 was dismissed by the Tribunal on 5.3.2003 by relying upon the judgment rendered by it in O.A. No. 2687/1999 dated 5.3.2003 vide Annexure P-3/1, titled as Rattan Lal and Ors. v. State of H.P. Rattan Lal and Ors. sought judicial review of the judgment rendered by the Tribunal in O.A. No. 2687/1999 dated 5.3.2003 by way of CWP No. 151/2004. CWP No. 151/2004 preferred by Rattan Lal and Ors. was allowed by this Court on 17.11.2008. Operative portion of the judgment reads thus:

4. In their reply filed to the original application, copy whereof is Annexure P-15, Respondents categorically stated in para 3 that since Punjab Government had not taken any policy decision to grant the further revised pay scale w.e.f. 1.1.1986, the Petitioners were not entitled to the said pay scale w.e.f. 1.1.1986. This reply on behalf of the Respondents is indicative of the fact that had the Punjab Government taken a decision to give the further revised pay scale w.e.f. 1.1.1986, the Respondents would have also granted the same scale to its employees, i.e. the Petitioners. No doubt, the Punjab Government took the decision to give this further revised pay scale to its employees w.e.f. 3.11.1989 and so the Respondents also released this scale in favour of the Petitioners and made it effective only from 3.11.1989 following the Punjab Government

Notification, but what the learned tribunal has omitted to take notice is the decision of the Punjab Government which was challenged by the employees of Punjab Roadways by filing a writ petition in the High Court and the High Court directed vide Annexure P-6 that the further revised pay scale be given w.e.f. 1.1.1986, the date from which the Pay Commission's recommendations had been made applicable in respect of the other employees of the State Government. That means the decision of the Punjab Government stood 3 modified by the judgment of the Punjab and Haryana High Court, copy Annexure P-6, at least in respect of those employees of the Punjab Roadways who had filed the writ petition in which the said judgment was rendered. Therefore, the Petitioners, on the basis of the aforesaid judgment of the Punjab and Haryana High Court, which had the effect of modifying the Punjab Government decision, ought to have been allowed further revised pay scale w.e.f. 1.1.1986 by the State Administrative Tribunal. The learned Tribunal's order is thus contrary to factual and legal position and is liable to be set aside. Consequently, the writ petition is allowed, impugned order of the learned tribunal is set aside and Respondents No. 2 & 3 are ordered to give the further revised pay scale of Rs. 950-1800 with initial start of Rs. 1,000/- to the Petitioners w.e.f. 1.1.1986. Six months' time is given to Respondents No. 2 and 3 to implement this direction. No order as to costs.

2. Since the present case is also based on same and similar facts as of O.A. No. 2687/1999 and CWP No. 151/2004, the present petition is also liable to be allowed.

3. Consequently, we allow the present petition in view of the judgment rendered by this Court in CWP No. 151/2004. The judgment dated 5.3.2003 passed in O.A. No. 2363/1998 is set aside. Respondents No. 1 and 2 are directed to give further revised pay scale to the Petitioners with effect from 1.1.1986 instead of 3.11.1989, as per notifications dated 13.5.1992 Annexures A-2 and A-3 annexed with Annexure P-1 of this petition. Four months time is given to Respondents No. 1 and 2 to implement the direction. Pending application(s), if any, also stands disposed of. No costs.