
(2013) 07 P&H CK 0759
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15141 of 2013 (O and M)

Gurtej Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 172 PLR 139

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : R.K. Arora, for the Appellant;

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J.—It has been pleaded that the petitioner initially joined the Punjab State Education Department as J.B.T. Teacher on 16.2.1972. He was, thereafter, promoted as Head Teacher on 2.4.2002 and retired from service on 31.3.2003 upon attaining the age of superannuation. The State of Punjab, Department of Personnel & Administrative Reforms issued policy instructions dated 25.9.1998, whereby the Assured Career Programme Scheme was implemented towards alleviating stagnation and a financial benefit in the nature of proficiency step-up increments were admissible to an employee upon completion of 8/16/24/32 years of service in the same cadre.

2. Learned counsel for the petitioner submits that the petitioner had been granted the benefit of 8 years service and released the 1st proficiency step-up w.e.f. 1.1.1986. The petitioner had completed 16 years service on 1.1.2002 i.e. prior to his promotion as Head Teacher on 2.4.2002. The present writ petition has, accordingly, been filed for the grant of benefit of A.C.P./2nd Proficiency Step-up increment w.e.f. 1.1.2002 and for all other consequential benefits.

3. Learned counsel for the petitioner would strenuously argue that the petitioner has been making repeated requests to the authorities concerned for such relief and since no response was forthcoming, a Justice Demand Notice was served by

the petitioner on 15.11.2012 as regards redressal of his grievance. Since the same is also not being responded to, the instant writ petition has been filed. Counsel further submits that the non-grant of benefit of A.C.P. which was in fact due on 1.1.2002 would constitute a recurring cause of action to the petitioner and accordingly, the present writ petition would be maintainable even at this stage.

4. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the claim raised by the petitioner for grant of proficiency step-up upon completion of 16 years of service w.e.f. 1.1.2002 would not require any examination on merits and on the other hand the writ petition deserves to be dismissed on the sole ground of delay and laches.

5. A claim for grant of A.C.P. benefit has been raised by the petitioner post retirement and in fact after 10 years from the date he attained the age of superannuation. The question of a claim in the nature of wrong fixation of pay and the same being time barred came up for consideration before the Hon"ble Supreme Court in case of M.R. Gupta Vs. Union of India and others, In such case the claim of the appellant seeking the correct fixation of pay had been declined by the Tribunal constituted under the Administrative Tribunal Act, 1985 holding the claim to be time barred. However, the Hon"ble Supreme Court while granting relief to the appellant and holding that the wrong fixation of pay would be a continuing wrong and which gives rise to a recurring cause of action each time the employee was paid salary which was not computed in accordance with the rules had also observed that it is only so long that an employee is in service that a fresh cause of action would arise every month. As such, such expression "recurring cause of action" would be available to an employee only during the tenure of service. The protection of "recurring cause of action" would not be available to an employee so as to raise a belated claim post retirement. The petitioner is seeking the benefit of A.C.P. w.e.f. 1.1.2002 in terms of filing the instant writ petition in the year 2013 after having retired from service in the year 2003. Such claim will have to be held to be time barred.

6. Even the submission raised by the counsel that repeated representations have been filed by the petitioner from time to time for raising such claim and accordingly delay cannot be construed as fatal, is also without merit. Repeated representations would not furnish a fresh cause of action. A reference in this regard may be made to the decision of the Hon"ble Supreme Court in case of S.S. Rathore Vs. State of Madhya Pradesh,

7. For the reasons recorded above, the present writ petition is dismissed on the sole ground of delay and laches. Petition dismissed.