
(2013) 11 P&H CK 0154
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 5815 of 1994

Vanita Suri

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2014) 2 SCT 451

Hon'ble Judges : Bharat Bhushan Parsoon, J

Bench : Single Bench

Judgement

Dr. Bharat Bhushan Parsoon, J.—The petitioner is seeking writ of mandamus against the respondents to release her pay in the revised scale with effect from 1.1.1986 whereas she has been allowed such payment of arrears w.e.f. 1.4.1991. The petitioner was appointed as Steno-typist on 27.1.1981 by Punjab Khand Udyog Limited (PKUL). She was promoted as Senior Scale Stenographer w.e.f. 1.1.1982. Her scale of pay was revised from time to time. She was later promoted as Personal Assistance in the pay scale of Rs. 700-1200 w.e.f. 1.7.1985 and her basic pay was fixed at Rs. 750/-. Vide a subsequent order of 20.8.1990, her scale of pay was revised to Rs. 800-1400 with effect from 1.7.1985 itself. She had been agitating that pay revised in terms of Third Pay Commission qua non-managerial employees upto Rs. 600-1120 had not been made effective in her case as also in case of other similarly situated employees. When such representations from her and other employees were being made, winding up proceedings of PKUL started. She was given appointment by Punjab State Federation of Cooperative Sugar Mills Limited (in short the Federation) i.e., respondent No. 2 on 16.1.1991 (Annexure P-5) where she is presently working. Though vide order of 17.1.1992 (Annexure P-6) pay scale of Rs. 2000-3500 was given to her w.e.f. 1.1.1986 and her pay had accordingly been fixed at Rs. 2050/- as on 1.1.1987, it was ordered that arrears were to be paid from 1.4.1991. Representations (Annexures P-7, P-8 and P-9) were made for release of arrears w.e.f. 1.1.1986 instead of 1.4.1991.

2. Claim of the petitioner for such payment from 1.1.1986 has been contested by respondents No. 1 and 2 wherein plea of contesting respondents is that approval of revision of pay scales was given by respondent No. 1 with a stipulation that the same was to be paid w.e.f. 31.3.1991. It is claimed that all benefits as also arrears of pay have been released to the petitioner in terms of letter Annexure R-2/1 on 8.11.1991. Sequel, prayer for dismissal of the writ petition was made.

3. Counsel for the parties have been heard while perusing the paper book.

4. Contention of the petitioner is that when revision of pay scale had been effected w.e.f. 1.1.1986 and pay has also been fixed in such terms, then there is no justification for withholding of arrears for the period of 1.1.1986 to 31.3.1991. Per contra, contention of the respondents is that the petitioner is in employment with the respondent-Federation only w.e.f. 16.1.1991, and thus, she cannot be paid arrears of her pay w.e.f. 1.1.1986.

5. Concededly, the petitioner's previous employer PKUL is not a party to this litigation. Even respondents No. 3 and 4 initially impleaded in this writ petition are no more there as at the behest of the petitioner, those were deleted from the array of parties vide order dated 6.5.1994.

6. From the appointment letter Annexure P-5, it becomes evident that the petitioner was granted fresh appointment according to which she was to remain on probation for a period of one year, which period was extendable even further as per rules. She was entitled to annual grade increments only on successful completion of probation period. She was given choice to accept or refuse such offer of employment. Copy of such appointment letter was also sent to her previous employer to relieve her in case she was to avail that offer and it was specifically stipulated that she may be relieved "after settling her accounts". In these circumstances, her claim qua respondent No. 2 emerges only from the date of her joining with respondent No. 2.

7. Consequently, while partly allowing this writ petition, the petitioner is to be paid arrears of pay in the revised scale w.e.f. the date of her joining respondent No. 2, i.e., 16.1.1991 only.

8. It is, however, to be noticed that an imaginary stipulation that arrears are to be paid w.e.f. 1.4.1991 is inconsistent with the release of the revised pay scales. When the revised pay scale have been released with effect from 1.1.1986 and pay has also accordingly been fixed in the said scale, this restrictive condition of payment of arrears w.e.f. 1.4.1991 and not from 1.1.1986 is understandable and rather smacks of wrongly withholding of genuine arrears of the petitioner from 1.1.1986 to 31.3.1991 without any justifiable cause. Since earlier employer of the petitioner has not been impleaded as one of the respondents by the petitioner, no relief in this case with regard to arrears from 1.1.1986 to 15.1.1991, thus, is permissible. The petitioner, however, may agitate her claim qua them separately in accordance with law.