

(2010) 09 P&H CK 0370

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 16361 of 2010

Kulwant Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Sept. 13, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Judgement

Ajai Lamba, J.

This civil writ petition has been filed under Article 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari, quashing action of the respondents in withdrawing the benefit of three increments given to the petitioners on their acquiring higher qualification of Giani. The impugned action has been taken after retirement of the petitioners and recovery is being effected.

2. Notice of motion.

3. On the asking of the Court, Mr. B.S. Chahal, Deputy Advocate General, Punjab, accepts notice on behalf of the respondents. Requisite number of copies of the writ petition have been handed over to learned Counsel for the respondents in Court.

4. On request of learned Counsel for the parties, the matter is taken up at this stage itself for final adjudication in view of the peculiar facts and circumstances of the case.

5. Learned Counsel for the respondent-State contends that the matter can be referred to the Committee constituted by this Court while dealing with Civil Writ Petition No. 8701 of 2009 titled "Dalbir Singh and Ors. v. State of Punjab" decided on 8.3.2010.

6. Learned Counsel for the petitioners contends that he would have no grievance if the Committee considers the case of the petitioners.

7. In Dalbir Singh's case (supra), the following has been held:

[5] During the course of hearing, learned Counsel for the parties are ad-idem that since the question as to whether or not the petitioners were entitled to the grant of additional increments can be resolved only on the deep scrutiny of facts and records, the matter may be relegated to the Officers' Committee constituted by this Court vide order dated 02.03.2010 passed in CWP No. 16323 of 2008 [Smt. Sudarshana Devi and Anr. v. State of Punjab and Ors.].

[6]. Ordered accordingly.

[7]. Adverting to the additional contentions, I find that the respondents have nowhere averred that the petitioners misrepresented the facts or played fraud or deception to seek monetary gains, no recovery, therefore, can be affected from them as held by the Full Bench Budh Ram's case [supra]. The impugned recovery orders, are accordingly quashed. If any recovery has already been affected, the respondents are directed to refund the same within a period of four months from the date a certified copy of this order is received.

[8]. So far as the non-observance of principles of natural justice is concerned, in view of the fact that the matter has been referred to the Officers'-Committee constituted under the orders of this Court, it is directed that the said Committee shall decide the petitioners' claim afresh and objectively, uninfluenced of the reasons assigned in the impugned orders. The Officers'-Committee shall ensure that the petitioners are personally heard may be in a representative capacity and the judicial precedents cited on their behalf are taken into consideration before arriving at the final decision. The Committee shall make its recommendations as early as possible and preferably within a period of six months from the date a certified copy of this order is received.

[9]. It is made clear that while the petitioners, till the Officers' Committee takes a fresh decision, shall continue to draw their retiral benefits as per the re-fixed Pay/Pay Scales, however, if the Committee recommends in their favour, it is directed that the Competent Authority shall ordinarily accept such recommendations unless it disagrees for the reasons to be recorded in writing. On acceptance of the Committee's recommendations, the petitioner shall be entitled to the consequential revision of their retiral benefits including pension and arrears thereof shall also be paid to them within a period of six months of such decision.

[10]. Since some of the petitioners have not been granted the retiral benefits so far, the Accountant General, Punjab, is directed to release the pensionary benefits of such employees on the basis of the re-fixed pay/Pay Scales, subject to final outcome of the matter. Disposed of.

8. In view of the above, this petition is disposed of in terms of order dated 8.3.2010 rendered in Civil Writ Petition No. 8701 of 2009 titled "Dalbir Singh and Ors. v. State of Punjab".