

PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.

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Sh. Makhan Singh 9915189047
Village Bika,
SBS Nagar.

Regd.

....Appellant

Vs

Public Information Officer
o/o Chief Secretary, Punjab
Punjab Civil Secretariat-1,
Chandigarh.

Regd.

First Appellate Authority
o/o H.E. Governor, Punjab,
Punjab Raj Bhawan, Chandigarh.

Regd.

....Respondents

Appeal Case No. 3485 of 2021

ORDER

This order may be read with reference to the previous order dated 25th October 2021 vide which the order in this case was reserved to be pronounced.

2. The appellant has sought the information regarding his representation which was sent to the President of India and the said office forwarded the same to the Hon'ble Governor of Punjab.

3. The applicant is seeking the information from the Public Information Officer o/o the Chief Secretary Punjab by filing the RTI application. He filed the first appeal before the First Appellate Authority o/o the Hon'ble Governor of Punjab to provide the status of the said applications. The General Administration Coordination Branch informed the Commission which has been diarized in the Commission vide number 20953 dated 15th September, 2021 in which it has informed that the said letter of the appellant has already been forwarded to the Home Affairs and Justice Department vide letter number GAT – CORDORT1/28/2020-GC5/182321/2021 dated 17th May, 2021. Also the reply has already been filed by the Public Information Officer office of Honourable Governor of Punjab., vide which it has informed that the representations dated 7 May 2021 and 19 May 2021 of the appellant has already been forwarded to the Additional Chief Secretary to Government of Punjab, Department of Home Affairs and Justice and Jails vide Number PRB-3G-2021/H/2236 dated 17 May 2021 and PRB-3G-2021/H/2475 dated 28th May 2021 for further necessary action. Also the representative of the respondents on behalf of the Home Affairs and Justice Department

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Appeal Case No. 3485 of 2021

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Punjab (Home 3 Branch) stated during the hearing on 26.10.2021 that the information pertaining to the mercy petition filed by the appellant as available on record has already been supplied to the appellant in appeal case number 212 of 2020. In addition, he states that the same has already been disposed of by the Commission.

4. It is also appropriate to mention the instructions issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training No. 10/2/2008-IR dated 12.6.2008 to transfer the RTI application of the appellant under Section 6(3) of the RTI Act, 2005 to 'public authority' and not to the 'public authorities' in accordance with the provisions of the RTI Act, 2005. However, the appellant is at liberty to file the application afresh to the authorities concerned in case he is willing to take any information.

5. Keeping in view the replies filed by the respondent authorities in this case, the Commission accepted the same. Therefore, after consideration of the facts of the case the Commission observes that no further action is required to be taken in this case as the specific reply has already been filed by the respondent Public Information Officer/First Appellate Authority in this case. Hence, the case is disposed of and closed.

Dated: 8.11.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

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Sh Nirmal Singh Dhiman,
Supdt Grade 1 (Retd.)
9988163411
895 Phase 11(Sector 65)
Mohali

Regd.

....Appellant

Vs

Public Information Officer
o/o Financial Commissioner,
Sectt. Admn 1 Branch,
Punjab Civil Secretariat-1, Chandigarh.

Regd.

First Appellate Authority
o/o Financial Commissioner,
Sectt. Admn 1 Branch,
Punjab Civil Secretariat-1, Chandigarh.

....Respondents

Appeal Case No. 2635 of 2021

ORDER

This order may be read with reference to the previous order dated 14.10.2021 vide which the order in this case was reserved to be pronounced.

2. The appellant has sought the following information as per his RTI application. Dated 6th November 2020:-

(a) Supply a photocopy of the office noting of the representations, dated 13.09.2019 and 18.07.2019 addressed to Sh. KBS Sidhu, AS, Addl.C.S. -cum-FCR wherein he passed the following orders, dated 17.07.2019 on the representation as under

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"May kindly grant him personal hearing after summoning the record and make necessary recommendations" from the file No 14/04/2005-4Admn-3 on page 184-186(N). This office noting be dully signed by the PIO under her own seal.

(b) Supply the Photostat copies of the promotion orders of Sh. Dalbir Singh Saroa as Superintendent Grade-II on 02.07.1993 and as Superintendent Grade-I on 07.07.1995 on the basis of reservation as S.C.. These copies of the orders be dully signed by the PIO under her seal.

(c) Supply a Photostat copy of the office noting prepared by the office on the basis of which the reply sent to the Joint Director(Admn), Vigilance Bureau, Punjab vide Memo. No. 14/04/2005-4-Admn-3/7- Admn -1/ 21629, dated 2.11.2020 has been sent on the following grounds: -

(i) Admitted that the at time of retirement the basic pay was Rs. 10980/- and got the benefit on this basic pay.

(ii) My pay was enhanced to Rs 11320/- on 29.11.2006 in the light of the instructions, dated 25.09.2006 of Finance Department which was reduced to even to my junior Smt Vijay Kumari, the then superintendent. (copies enclosed).

(iii) The process of pay fixation done after retirement for reducing the pay from Rs11320/- to Rs. 10980/- is not based upon any rule mentioned therein whereas I have already justified to the authority on the basis of the ruling of High Court of Punjab and Haryana in RSA no.341/2009, dated 14.09.2012 entirely based upon the Rule 2.2 of CSR Vol.II for granting terminal benefits to the retiree as under:-
".....while examining the whole law on the point, it is observed that when no proceedings had been initiated by the respondent against the petitioner employee prior to his retirement and no enquiry has been held, the respondent could not make such decoctions against its employees on the basis of report

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made by some Committee after his retirement.

Resultantly, the appeal of the appellant is accepted, impugned judgment is set aside and the suit of the appellant is decreed to the effect that he is entitled to refund of deductions made out of his pensionary benefits along with interest at the rate of 12% per annum w.e.f-----to the actual date of payment."

(iv) The action of denial of recovery made from me is absolutely wrong. The office withheld an amount of Rs. 65,000/- with the approval of the competent authority and concealed in the orders issued with approval of competent authority on 15.06.2006. In order to justify this irregularity of the office copies of the two orders dated 29.01.2008 and 16.09.2008 were issued with the approval of Romilla Dubey, IAS FCR showing the payment of withheld amount of Rs. 65,000/- (Rs. 11,105+Rs. 53895) to me. (See page 13 and 14 of the representation ,dated 02.02.2017 addressed to Mr. Faizal Imam, IA&AS received in the deptt on 10.11.2017 under the signature of Sh. Bhagat Singh ,SAO). **Supply a copy of document showing that recovery has not be made from the applicant dully attested by the under her seal.**

(v) Supply a Photostat copy of the rules under which pay can be reduced after retirement without finding any fault of mine to justify the action of the deptt done after my retirement on 8.6.2007 and 2.9.2008.

(vi) To file the representations without assigning any reasons not to follow the instructions of the Finance Department , Personnel Department , legal Opinion of the Advocate General Punjab ,Rule 2.2 and 9.9 of CSR Vol.II and Appendix I of rule 2.33 of PFR Vol.I in

(vii) the letter to the Vigilance Bureau placed before them is not justified. To say the correct pay has been fixed after retirement to settle the audit objection raised by the AG(A&E). Punjab is not based upon the instructions of the State Government. Supply a copy of the instructions on th basis of which pay can be reduced after retirement.

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Appeal Case No. 2635 of 2021

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3. The appellant also submitted the reply given by the respondent vide letter dated 4th December, 2020 but due to dissatisfaction of the appellant, he filed the first appeal before the First Appellate Authority and thereafter he filed the 2nd appeal in the Commission on 4th June, 2021. Accordingly, the notice for hearing was issued to the parties for 4th August, 2021. During the hearing on 4th August 2021, the appellant stated that he has received the information. However, he submitted the additional submissions, the copy of which has already been sent to the respondent-Public Information Officer. Another copy was also given to respondent-Public Information Officer during the course of hearing. The respondent-Public Information Officer was directed to file the rejoinder, if any and the case was adjourned for 6th September, 2021.

4. On the said date, both the parties were directed to file their written submissions in this case. Accordingly, the case was adjourned for 16th September 2021. On the said date the appellant requested that since he is having other cases also, all of his cases may be fixed on the same day. Accordingly, the case was adjourned for 14th October, 2021.

5. That the respondent Public information Officer also sent the detailed reply vide letter dated 10th September 2021 which has been diarized in the Commission vide No. 20704 dated 13th September, 2021 a copy of which was sent to the applicant. After the detailed reply sent by the respondent, no submissions have been received from the appellant in this case so far. Representative of the respondent also brought to the notice that the appellant has already given an undertaking that he will refund the amount excess of pension or any other benefit paid to him that are in excess of that due to him. Also, the representative of the respondents brought to the notice that the pay of the appellant has never been reduced. In addition, the respondent also stated that the matter regarding fixation of pay is the administrative matter which has already been dealt with and the number of representations given by the appellant in this regard have already been filed by the competent authority after due consideration of the same.

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Appeal Case No. 2635 of 2021

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4. That the appellant has not filed any counter submissions after 13th September 2021 i.e. the date on which the final submissions/detailed reply have been made by the respondent-Public Information Officer. Keeping in view the above, the Commission observes that the complete information has already given by the respondent and no further directions can be given to the respondent-Public Information Officer. Disposed off and closed accordingly.

Dated: 8.11.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

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Sh. Nirmal Singh Dhiman, Supdt. Grade 1 (Retd.) **Regd.**

s/o Late Sh. Gurbax Singh,

r/o House No. 895, Phase 11,

SAS Nagar 9988163411.

....Appellant

Vs

Public Information Officer **Regd.**

o/o Under Secretary Revenue,

Financial Commissioners, Pb.

2nd floor, Punjab Civil Secretariat-1,

Chandigarh.

First Appellate Authority

o/o Joint Secretary Revenue,

Financial Commissioners, Pb.

2nd floor, Punjab Civil Secretariat-1,

Chandigarh.

....Respondents

Appeal Case No. 3318 of 2021 & Appeal Case No. 3355 of 2021

ORDER

This order may be read with reference to the previous order dated 14th October, 2021 vide which the order in this case was reserved after hearing both the parties.

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2. The appellant has sought the following information as per his RTI application:-

Appeal Case No. 3355 of 2021

(a) Supply a photo copy of the office noting to deal with the representation, dated 22.02.2021 addressed to Sh. Vishwajit Khanna, IAS, Addl. C.S.-cum- F.C.R. on the basis of the facts contained therein by discharging their functions and duties to follow the procedure for decision making process including channels of supervision and accountability on the basis of the rules, regulations, instructions, manuals and records held by it or under its control under section 4 of the RTI Act being an obligation of the Public Authority keeping in view the guidelines issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Trainings)'s letter No. 1/6/2011-IR, dated 05/07.04.2019 under Para 3.3 : procedure followed in the decision making process including channels of supervision and accountability as under:-

Para 3.3.1

All Government departments have specific duties and responsibilities under respective Allocation of Business Rules (AOB) issued by the appropriate Government. The Constitutional provisions and statutes each government is required to implement are clearly laid down in the AOB. The manner of disposal of matters assigned to each Department/Ministry is described in the Transaction of Business Rules (TOB). Additionally, each department would have a specific set of scheme and development programmes which are required to implement directly or through their subordinate offices or other designated agencies. These documents contain some specific operations that every public authority is required to undertake in the course of implementing the programme or scheme. Every operation mandated under the AOB read with the TOB would

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be linked to a specific decision making.
ALL GOVERNMENT OFFICERS HAVE TO FOLLOW LAID DOWN OFFICE PROCEDURE MANUAL OR THE OTHER RULES WHICH GIVES DETAILS OF HOW REPRESENTATIONS, PETITIONS AND APPLICATIONS FROM CITIZENS MUST BE DEALT WITH. TEMPLATES, FORMATS, AND BASIC STEPS OF DECISION MAKING ARE BRIEFLY EXPLAINED IN SUCH MANUAL. THESE DESCRIPTIONS CONSTITUTE THE ELEMENTS OF DECISION MAKING PROCESS IN GENERAL.

This office noting be dully attested by the P.I.O. under her own seal.

- (b) The reply conveyed by the Superintendent Admn-I Branch vide its memo. No. 08/03/3021-7-Admn-1/3561, dated 25.03.2021 only relates to Para No.15 of the representation by suppressing all material facts in the representation. The reply conveyed is not based upon the instructions issued by the Department of Personnel (P.P.II Branch) vide circular letter No. 12/39/02 5-PPII/9406, 17.06.2002 and 12/39/ 02-5PPII/10960, dated 12.06.2003 which entirely based upon the CWP No.4382-2002- Satbir Singh and others v/s State of Haryana. Para No.3 of the instructions, dated 12.06.2003 is as under: -
Para No. 3.: - It has been observed that different types of cases deemed as similarly situated are being sent by the Administrative Department to the Department of Personnel, merely on the facts represented by the claimant employees for placing the same in the meeting of the said Committee. These cases lack the following aspects: -

- (i) The real facts of the case as per the official record of the Department.
- (ii) Facts regarding efforts made by the Administrative Department to solve the problems at their level.
- (iii) Opinion of the advising Department i.e. Department of Finance, Department of Personnel (concerned Branches), Legal Remembrancer,

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Department of Welfare or another Department, where necessary.

- (iv) Facts of decided case attained finitely alongwith the name of the Hon'ble Court which passed the orders deemed as final.
- (v) Facts and circumstances denoting the position of instant case as similarly situated to that decided case which attained finitely.
- (vi) Specific view of the Administrative Department to be incorporated in their proposal

Scrutiny of all above cases to be recorded in the note of the Administrative Department along with documentary evidence before sending the cases to the Committee for final decision.

In view of the office noting of (a) above will clarify the position in the light the news-item "Krishna Menon as Minister" of Indian Express, dated 06.01.1993. {Copy enclosed}

- (c) The Annexure -I attached with the application, dated 22.02.2021 clarifies that office reduced of basic pay after retirement and it is confirmed from Annexure -II and III of this application.

Supply a copy of the Rules under CSR and PFR under which the pay has been reduced after retirement without any fault of mine.

The copy to be supplied by duly attested by the PIO under her own seal.

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Appeal Case No. 3318 of 2021

Information required under the ACT
Restoration of Basic Pay of Rs. 11320/- (To be revised to Rs. 26060/- on Fifth Pay Commission's Report, 2006 by withdrawing the orders, dated 08.06.2007 and 02.09.2008 issued after my retirement on 31.01.2006 for grant of Pension, gratuity and leave encashment on this basic pay w.e.f 01.02.2006
From the date of retirement upto now.
(a) Supply a photo copy of the office noting dealt with by the dealing Assistant by discharging his duties on the basis of the facts contained in the representation, dated 07.01.2021 and powers discharged by the higher authorities in her office noting as per Rules and instructions for settlement of the audit objection of the AG(A&F), Punjab, dated 08.03.2006, The office noting to be supplied by duly attested by the PIO under her signature with her own seal.
(b) The relevant of the portion of the orders, dated 28.01.2021 of the Hon'ble ACS-cum-FCR is as under: - "It has been clarified to Sh. Nirmal Singh Dhiman that his pay has been fixed absolutely correct in the light of the rules /instructions and his pension has been sanctioned on the last basic pay at the time of retirement. No increment has been reduced of sh. Nirmal Singh Dhiman." This order, dated 28.01.2021 is not based upon the facts shown in the representation. As such, the facts from the representation, dated 07.01.2021 have been concealed in the office noting on the basis of which this orders has been prepared. Supply a photo copy of the office noting of my representation, dated

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07.01.2021 showing the interpretation of the rules, 2.2, 9.9 and 9.13 of CSR Vol.II and Appendix I of Rule 2.33 of PFR Vol.I in the office noting in consultation with the Finance Department as per instructions of the Finance Department. This information be duly attested by the PIO under her own seal.

- (c) The office granted the benefit to Sh. Gurinder Singh, PA of this office after his retirement whose pay was also reduced after his retirement in the light of the opinion, dated 04.12.2013 of Advocate General Punjab obtained in the case of State of Punjab v/s Krishan Kumar Bansal & Ors (Special leave to appeal) © 24607/2010, dated 02.08.013]. the copies of the orders, dated 17.06.2011 to this effect issued under the signature of Sh. Rakesh Bhalla and the condition imposed under the note was removed by Shri N.S. Kang, IAS, the then FCR under his orders, dated 21.01.2014. The copies of both these orders were sent to the AG(A&E) Punjab.

Supply a photo copy of the office noting following these orders as precedent to grant the benefit to me being similarly situated conditions after my retirement under the instructions of the Punjab Govt.

It should be duly attested by the PIO under her own signature and her own seal.

- (d) **Supply a photo copy of the office noting to deal with the representation, dated 28.05.2018 addressed to Mrs. Vini Mahajan, IAS, the then FCR for the settlement of the Audit objection raised by the AG(A&E), Punjab, dated 08.03.2006 on the basis of the facts contained therein in view of the role played by the office in Para NO.10 as under:-**

"Besides it is stated that a number of opportunities of

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3. The titled cases were clubbed as the appellant, respondent authority, the nature of the sought information remained the same and also the appellant filed the single rejoinder in both the cases.

4. The respondent sent the detailed reply vide their letter number 9810 dated 27th August 2021 and number 11189 dated 28th September 2021 along with the information to the appellant regarding the Appeal Case Number 3355 of 2021. Also the respondent sent the detailed reply along with the information in Appeal Case Number 3318 of 2021 vide number 9812 dated 27th August 2021 on which the appellant filed the rejoinder vide representation dated 10th September 2021 with a copy to the respondent-Public Information Officer. Thereafter the respondent Public Information Officer again filed the detailed reply vide number 11323 dated 30th September 21 with a copy to the appellant. After the final submissions made by the respondent Public Information Officer in both the cases mentioned above, no rejoinder/submissions have been received from the appellant so far. However, during the hearing, the main contention of the appellant was that his basic pay cannot be reduced in accordance with the various judicial pronouncements of the Honourable Courts and the instructions issued by the Government of Punjab and he has sought the information pertaining to his own representations. Whereas, the representative of the respondents already submitted in various cases that the appellant has filed numerous applications regarding his pay fixation/revision of pension and he filed the number of cases which has already been disposed of by the Commission. As far as the information in the titled cases is concerned the same has already been supplied to the appellant and no submissions have been received from the appellant till date. Due to non receipt of the deficiencies from the appellant, no directions are being given to the respondent public authority.

However, considering the main concern of the appellant that his pay/pension cannot be reduced in accordance with the Punjab Government instructions/Judicial pronouncements, the same are being sent to the Financial Commissioner Revenue with an advice to look into the matter and take appropriate action as per the law/ rules/government

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instructions preferably after giving a personal hearing to the appellant and by passing a speaking order. A copy of the judicial pronouncement/Government instructions and the other material document submitted by the appellant in support of his claim are also being sent to the Financial Commissioner, Revenue along with this order. With these observations the case is disposed of and closed.

Dated: 8.11.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

CC
Sh. V.K. Janjua, IAS **Registered**
Financial Commissioner (Revenue)
Punjab Civil Secretariat-1,
Chandigarh.