

**110+115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP NO. 10122 OF 2015(O&M)

Date of decision: 03.11.2015

Ashok Kumar and others

.....Petitioners

versus

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr.Justice Rajiv Narain Raina

Present: Mr. P.S.Khurana, Advocate
for the petitioners.

Rajiv Narain Raina, J.

CM No. 14592 of 2015

Allowed as prayed for subject to all just exceptions.

Annexures No. P-12 to P-16 are taken on record.

CWP NO. 10122 of 2015

1. The current duty of additional charge of the higher post assigned to the four petitioners continued for five years either w.e.f. January 30th or 31st , 2008 and the petitioners discharged the duties and responsibilities of the higher post for which they claim difference of higher pay scale on principles of 'equal pay for equal work' and quantum meruit. They served a legal notice on the respondents on January 23, 2014.

2. Mr. Khurana submits that similarly situated persons have had their cases decided in their favour on the moot point in the orders, the texts of which are placed as Annexures P-12 to P-14 and which orders have been affirmed by the Supreme Court. As a result, the Department itself had reviewed its decisions and granted the monetary benefits to the petitioners

in those petitions which is placed on record as Annexure P-16. Since the decision in similar matters has already been taken by the respondent department in cases of similarly-placed persons then Mr. Khurana submits while appearing for the petitioners that this Court may consider directing the respondents to consider and decide their cases in the light of judicial and administrative precedent on the issue involved which is no longer *res integra*.

3. This request is fair and reasonable and in order to avoid any further delay which may result from issuing notice of motion and awaiting reply of the State on a matter already covered, a direction is issued to the decision maker amongst the respondents to take up the matter after receiving a supplementary representation from the petitioners which would bring the position up to date and thereafter decide the representation in terms of the decisions already taken. The respondents are directed to pass a final orders within 21 days of the receipt of a certified copy of this order. If hearing is found necessary, the petitioners or at least one of them would be heard and a speaking order passed but only in case an order adverse to their interest is contemplated for any cogent reason. Otherwise there is no need for affording an opportunity of hearing and the relief can be operated through office orders in case the department thinks it fit to grant retrospective financial relief. However, while granting retroactive monetary relief the department will not be precluded from examining relief from the stand point of limitation and this order will not be taken as having extended the period of limitation from the cause of action, if still alive. The department will read the recent decision of the Supreme Court in State of

Uttar Pradesh v. Arvind Kumar Srivastava, (2015) 1 SCC 347 and apply the principles indicated in the judgment while passing final orders on the representation/supplementary representation. Nothing said in this order will be viewed as conclusive on the rights of the petitioners to the relief claimed of retrospective arrears of difference of salary of the lower and the higher post involved in the current duty charge.

4. With these observations the petition stands disposed of.

3rd November, 2015
Shivani Kaushik

[Rajiv Narain Raina]
Judge