

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.20565 of 2010

Date of decision: 10.08.2015

Jangir Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Birdavinder Singh, Advocate,
for Mr. K.S.Chahal, Advocate,
for the petitioners.

Ms. Monika Chibber Sharma, DAG, Punjab

Mr. H.K.Aurora, Advocate,
for respondent no.2.

AMOL RATTAN SINGH, J. (Oral)

The twelve petitioners in this case are working on various posts in the Fire Brigade of the Municipal Committee, Mansa, Punjab. They seek implementation of the benefits provided in clause 19 of the Standing Orders framed under Rule 3(a) of the Punjab Municipal Fire Brigade Rules, 1977. The said clause, is not disputed by the respondents, even though the said Standing Order has not been either reproduced or annexed with the petition.

The relevant part of it, as was produced in Court, runs as under:-

“All members of the fire brigade staff shall be provided with rent free accommodation within the fire brigade premises or as near to the fire station as possible. The accommodation to be provided rank wise shall be as follows or prescribed by the PWD (B&R) norms:-

- i) Assistant Divisional Fire Officer 600 sq. ft Covered Area
 - ii) Fire Station Officer 600 sq.ft Covered Area
 - iii) Sub fire officer 400 sq. ft Covered Area.
 - iv) leading firemen, driver/operator and firemen etc. 200 sq. ft Covered Area.
- (1) The rent-free accommodation provided to the member of staff, free water shall also be provided.
 - (2) Free electricity shall be provided to the members of all the fire brigade staff in the free accommodation allotted to them, at the following scales:-
 - a) ADFO, FSO & SFO ----- 100 units/per month
 - b) Leading firemen, driver/operators and firemen etc.----- 50 units/per month.
 - (3) Any member of the fire brigade staff not provided with free accommodation shall, in lieu there of, be paid house rent, at the rates admissible to other members of the Government or local body employees.”

2. It is also undisputed that due to lack of available Government accommodation, the petitioners have not been provided with rent free accommodation and are, instead, being given house rent allowance.

3. In the reply filed by the Municipal Committee, it has been stated that the petitioners have not disclosed that they are getting 5% more house rent allowance than is allowed to other local municipal and Government employees. In effect they are, as such, being paid 17½% of their basic pay, as house rent allowance, as opposed to 12½% of basic pay, paid to other employees.

The reply further states that the facility of free water and electricity are only to be provided to those members of the fire brigade who were allotted free accommodation and are not getting any house rent.

4. Alongwith the said reply has been annexed a copy of a circular

dated 23.12.1988, issued by the Government of Punjab, Department of Finance, addressed to all Heads of Department etc., stating therein that as per the recommendation of the Third Punjab Pay Commission, it has been decided that “Government employees entitled to rent free accommodation, when not provided/allotted such accommodation, shall be allowed payment equal to the house rent charged by the Government from employees for Government accommodation, i.e. 5% of the basic pay in addition to the normal house rent allowances, if admissible, at the place of posting”. This has been made subject to the condition that the residence hired by the employee is in close proximity to his place of posting or at a place as may be specifically permitted by the competent authority.

5. In the short affidavit filed on behalf of the Government, it has, in fact, been stated that the instructions contained in para 19 of the orders dated 22.04.1977, “issued and framed under Section 240 of the Punjab Municipal Act” are to be provided by the concerned Municipal Council.

As such, Government has stated that any liability, as claimed by the petitioners, is that of the Municipality.

6. Pursuant to an order earlier passed by this Court, the Director-cum-Special Secretary to the Government of Punjab, Department of Local Government, had filed an affidavit stating that the instructions dated 23.12.1988 are applicable to the Department of Local Government also and as such, were circulated amongst all Executive Officers (of Municipality) in the State for information and necessary action, vide memo dated 07.08.1989.

7. All in all, though the contents of the Standing Order have not been denied, the Municipal Committee, Mansa, has tried to project that the

free electricity and free water to be provided can only be so provided when rent free accommodation is provided.

8. Learned counsel for the petitioners has pointed out that, as a matter of fact, what is to be provided to the employees covered by the said Standing Order, is:-

- i) Rent free accommodation;
- ii) Free water; and
- iii) Free electricity.

9. Learned counsel for the respondents has, rather vehemently, tried to justify the stand taken in the reply, though was unable to justify the rationale of the same, when queried by the Court.

10. Having considered the matter, after hearing both learned counsel, in the opinion of this Court, the petition deserves to be allowed, on the reasoning given hereinafter.

11. Though clause 3 of the afore reproduced Standing Order states that any member of the fire brigade as is not provided with rent free accommodation, shall be paid house rent at rates as admissible to other members of the Government or local bodies employees, the circular dated 23.12.1988, admitted to be applicable to the municipal employees, specifically provides that other than normal house rent allowance payable to government employees, 5% of the basic pay of the employee would be paid in addition to normal house rent allowance, where such employee is entitled to rent free accommodation, but is not provided with such accommodation. Hence, obviously, the extra 5% basic pay paid to the petitioners, over and above their normal 12½% of basic pay as is paid as house rent allowance to other employees, is in lieu of the rent free accommodation that could not be

provided to them.

As to why, electricity upto the number of units admissible to the petitioners, according to their ranks, as is provided for in clause 19 of the Standing Order, is not payable to them, just because they do not live in rent free accommodation, is something which is not at all understandable. Obviously, whether electricity is consumed upto the number of units to be provided free of cost, is so consumed in government accommodation or in rented accommodation, the rate of electricity to residential houses, within the municipality, would obviously remain the same. As such, the petitioners are held entitled to the same, in terms of the Standing Order.

12. Similarly, whether water is consumed in Government accommodation or in a rented accommodation, the same amount of water would be consumed by an employee and his family. Of course, if it is not determinable in a rented accommodation, as to how much water has been consumed by the concerned employee and his family, due to sharing of water meters etc. with landlords/other tenants, the Municipality can easily determine the same by seeing the average water consumed in government accommodations of the size as are the entitlement of each individual employee. Hence, the rationale behind denial of the benefit to the petitioners, is also not understandable.

13. In view of the above, the writ petition is allowed. The respondents are directed to reimburse the petitioners electricity and water charges, as are the entitlement of the petitioners in terms of what is provided in Standing Order 19, on the basis of actual bills produced by the petitioners.

Such reimbursement of water and electricity charges shall be

for a period of 38 months prior to the date of filing of the present writ petition by the petitioners, or the date of induction into service, whichever is later, in the case of each individual petitioner. The payment be made to the petitioners within a period of three months from the date of receipt of a certified copy of this order, alongwith interest @ 6% per annum, on the arrears of payment to be made.

In case any of the petitioners are unable to produce bills for any specific period of time, then the payment would be made to him/them on the basis of the average of the bills produced by them, provided, of course, that such average will be taken not only for the period of high electricity and water consumption months, but from various months across a calendar year.

Further, the respondents would continue to reimburse water and electricity charges to the petitioners in future also, on the basis of bills submitted by the petitioners.

No order as to costs.

10.08.2015
kapil/dinesh

(AMOL RATTAN SINGH)
JUDGE