

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Civil Writ Petition No.20896 of 2012

Date of decision: 9.2.2015

Dr.Kulwant Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Rajinder Sharma, Advocate,
for the petitioner.

Mr.Rajiv Prashad, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The petitioner is a retired professor in the Department of ENT in Government Medical College, Amritsar. While she was serving, she was given the current duty charge of the higher post of Professor while serving as an Associate Professor. The temporary arrangement continued till she was promoted by the DPC to the higher post from where she retired. She claims the difference of arrears of salary for discharging duties and responsibilities of the superior post. The claim has been denied vide order dated 23.7.2012 for the reason that the current duty charge was given in her own pay scale. The reason given in the impugned order is not tenable and has been rejected time and again. The second reason for denial of relief given is that while she

performed the duties of the higher post, the vacancy/post on which she worked was earmarked for scheduled castes while she was a general category candidate. Both the reasons are untenable and are, therefore, rejected. The principle on which the claim is based was laid down in **Smt.P. Grover v. State of Haryana**, AIR 1983 SC 1060 which ruling has been followed since then without departure. Other than *Smt.P. Grover*, the petitioner would rely on the decision of the Supreme Court in **Selvaraj v. Lt.Governor of Island, Port Blair and others**, (1998) 4 SCC 291 and the Full Bench decision of this Court in **Subhash Chander v. State of Haryana and others** 2012[1] SCT 603 concerning the same principle based on *quantum meruit*.

Officiation on a higher post will result in higher salary and, therefore, the impugned order deserves to be set aside. It is accordingly set aside. The petition is allowed. The petitioner is held entitled to arrears of difference of salary for performing the duties of the post of Professor for the period in question and she be paid the arrears after the same are calculated and then be disbursed within 2 months from the date of receipt of a certified copy of this order. Since the principle is so well settled and the petitioner has been compelled to approach Court, she would be entitled to costs of ₹ 25,000/- to be paid within the same time.

Mr.Prashad states that costs should not be burdened on the State for patent errors committed by its functionaries. He is right in saying so. Therefore, it will be open to the respondents to recover the costs from the officer found responsible for passing an order contrary to settled law as declared long ago in 1983 and to needlessly engage the time of this Court in

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such litigation which should have ended on the table of the Administrator in favour of the petitioner.

The petition stands disposed of in the above terms.

(RAJIV NARAIN RAINA)
JUDGE

February 9, 2015

Paritosh Kumar