

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 214

Case No. : C. W. P.No. 27463 of 2013

Date of Decision : May 21, 2015

Sham Labhaya and others Petitioners

Vs.

Punjab State Power Corporation Ltd. Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Saravpreet Singh Gurna, Advocate
for the petitioners.

Mr. Vikas Chatrath, Advocate
for the respondent.

* * *

DEEPAK SIBAL, J. :

Sub Fire Officers in Group XII in the Punjab State Electricity Board (now Punjab State Power Corporation Ltd. - hereinafter referred to as – the respondent Corporation) approached this Court through **C. W. P. No. 9294 of 1993 – Thana Singh and others vs. The Punjab State Electricity Board and another**, seeking parity in scales of pay being paid to them with the pay scales, which were being paid to persons holding

similar posts under the Government of Punjab. After considering the matter in detail, a learned Single Judge of this Court allowed their writ petition on 21.01.2010, by passing the following directions :-

“4. The petitioners shall be, therefore, entitled to same scales of pay as the scales admissible and granted to the other classes of persons within the same group i.e. group XII of Electricity Board and the arrears that have accumulated over a period of time, shall be calculated and paid to the petitioners and to all the persons falling within the same class, within a period of 12 weeks from the date of receipt of the copy of the order. [Emphasis supplied]”

A perusal of the above quoted portion of the judgment in Thana Singh's case (*supra*) shows that the learned Single Judge had applied the above said directions not only to the petitioners in that case, but also to all the persons falling within the same class, as the petitioners therein.

The judgment of the learned Single Judge in Thana Singh's case (*supra*) was challenged before a Division Bench of this Court in

L. P. A. No. 713 of 2010 titled **The Punjab State Electricity Board vs. Thana Singh and others.** Finding no merit in the appeal, through order dated 28.09.2010, the same was dismissed. The operative part of the order is reproduced below :-

“The incumbents in the post of Sub Fire Officers alongwith Head Clerks, Head Clerk-cum-Divisional Accountants and Internal Auditors were included in Group XII posts under the appellant/Board. The pay scale of the posts of Sub Fire Officers alongwith the other posts continued to remain the same even after revision w.e.f. 01.01.1980 and 01.01.1986. However, it appears that at some point of time while the pay scale of other group posts was revised to 1800-3200, the scale of Sub Fire Officers continued to remain at Rs. 1640-2925. The learned Single Judge recorded a finding that the stand of the Board as available in the reply filed in the writ proceeding did not indicate any basis for denial of the higher pay scale to Sub Fire Officers while

granting the same to the other categories of posts included in Group XII. In the absence of any discernible basis for the refusal of the higher pay scale to Sub Fire Officers, the learned Single Judge took the view that the actions of the Board in denying the same to the respondents/writ petitioners amounted to hostile discrimination which is prohibited by Article 14 of the Constitution of India.

Even before us no tangible basis have been disclosed for the impugned action of treating the incumbents in posts included in Group XII differently. That apart, from the recommendation of the Superintending Engineer, Thermal, O.P. Circle, GNDTP, Bhatinda (Annexure P2), it appears that according to the said authority the Sub Fire Officers who constitute a very small cadre with limited chances of promotion deserved the same scale as allowed to the other incumbents in Group

XII.

Taking into account all the aforesaid facts and particularly the absence of any discernible basis for treating the respondents/writ petitioners differently in the matter of grant of higher pay scale, we are of the view that no interference with the order of the learned Single Judge is called for. We, therefore, refuse to entertain this appeal any further.

Letters Patent Appeal is accordingly dismissed. [Emphasis supplied]”

From the above quoted portion of the judgment, it can be seen that the Division Bench also upheld the directions of the learned Single Judge directing the applicability of the judgment to all similarly situated employees in the same Group, as the petitioners therein.

The above referred judgment of the Division Bench was challenged before the Apex Court, in which, on 02.08.2013, the following interim order was passed :-

“These applications have been filed by the petitioner for stay of the orders

passed by the Division Bench and the learned Single Judge of the Punjab and Haryana High Court.

We have heard Shri Nidhesh Gupta, learned senior counsel for the petitioner at some length and perused the record.

In our considered view, there is no valid ground much less justification for staying the operation of the orders passed by the learned Single Judge and the impugned judgment. If the special leave petitions are finally allowed, then the petitioner will be free to recover the excess amount from the salary and other emoluments payable to the respondents. However, there is no equity in staying implementation of the order passed by the learned Single Judge, which has been confirmed by the Division Bench.

The applications are accordingly dismissed.

The petitioner is allowed one month's time to implement the direction given by the learned Single Judge of the High Court. If the needful is not done then the High Court shall be free to take action under the Contempt of Courts Act, 1971 against the defaulting officers.”

It is the undisputed position that the matter is still pending before the Apex Court.

From the above quoted facts, it is apparent that the directions given in **Thana Singh's** case (*supra*) were to be applied to all similarly situated employees of the respondent Corporation in Group XII. It is the admitted case between the parties that all the petitioners are employees of the respondent Corporation falling under Group XII and are thus similarly placed, as the petitioners in **Thana Singh's** case (*supra*).

That being so, as per the orders of this Court in **Thana Singh's** case (*supra*) as also the order dated 02.08.2013, passed by the Apex Court, as quoted above, the respondent Corporation is directed to grant the same relief to the petitioners, as granted to the petitioners in **Thana Singh's** case (*supra*), however, subject to the final order, to be passed in the pending appeals by the Apex Court. If the appeals are allowed by the Apex Court the respondent Corporation would be at liberty to recover the excess

amount from the salary and other emoluments payable to the petitioners.

It is further directed that the needful exercise be conducted within a period of two months from the date of receipt of a certified copy of this order.

**(DEEPAK SIBAL)
JUDGE**

May 21, 2015
monika