

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

IOIN -18652-2006 in/ and
CWP-18652-2006 (O&M)
Date of decision: 04.08.2016

Shyam Lal and others

.....Petitioners

versus

HPGCL and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.K.L.Dhingra, Advocate for the petitioners
Mr.Mohnish Sharma, Advocate for the respondent nos.1 to 3

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

IOIN -18652-2006

A note was put up by the registry seeking address of respondent No.4 from petitioner for effecting his service. Same was supplied but service could not be effected upon him. Now vide order dated 15.12.2014 an order was passed by this Court in the instant petition to the effect that from the reply filed by respondent No.1 to 3 it will be determined there from whether respondent No.4 is necessary party or not. Now written statement has been filed. It transpired that no relief is sought qua respondent No.4 but only stepping-up of their pay to the level that was being drawn by him who is stated to be junior to the petitioners. In view of above service of respondent No.4 is dispensed with. Counsel for the parties are ready to address arguments. Accordingly the petition is taken on board today for hearing.

CWP-18652-2006

The short controversy in this case is that, all the three petitioners as well as respondent No.4, were working as Junior Engineer in the respondent No.1 department. Undisputedly, the petitioners are senior to respondent No.4. The petitioners claim that they are being paid less pay than respondent No.4. Earlier also, the petitioners approached this Court by filing CWP No.7380 of 2004, which was disposed of on 8.5.2006 by a Division Bench of this Court by passing the following order:-

“We are of the considered opinion that respondent No.4, who belongs to the same category as the petitioner, cannot be granted higher pay than the petitioner, he being junior.

Consequently, the respondents are directed to re-consider the claim of the petitioner and to pass necessary orders within a period of two months from today.

Disposed of.”

In consequence to the aforesaid order, the respondents passed the order dated 10.7.2006 (Annexure P3), rejecting the claim of the petitioners.

I have heard learned counsel for the parties and have carefully gone through the file.

The factual position is not disputed. The only dispute is that date of increment of respondent No.4 was prior to the date of increment of the petitioners. Earlier, they were working in work charge capacity and in order to protect pay of the respondent, that increment continued to be given to him in the year 1979. That anomaly continued.

It is an established law that senior cannot be given less pay than the junior. The petitioners are working in the same capacity in the same

department and could not be paid lessor pay. In fact the department, in place of again pushing the petitioners to file another writ petition before this Court, should have taken the clue from the view expressed by the Division Bench of this Court vide order dated 8.5.2006 (Annexure P2). However, ignoring the observations, the impugned order was again passed. The same is being illegal is accordingly set aside. The respondents are directed to grant pay to the petitioners equal to respondent No.4 from the date respondent No.4 was given higher pay. Since the petitioners have now retired from service, the arrears shall be paid to them within two months from the date of passing of this order along with interest @ 9% per annum.

The writ petition is allowed accordingly.

04.08.2016*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No