

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14250 of 2016

Date of Decision: 21.07.2016

Roshan Lal and others

... Petitioners

Versus

The State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Shalender Mohan, Advocate,
for the petitioners.

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

RAJIV NARAIN RAINA, J.

1. The petitioners have retired from service on different dates while working on the substantive post of Social Welfare & Panchayat Officer. They had been discharging duties of Block Development & Panchayat Officers on current duty charge, a list of the relevant dates are appended at Annex P-1. They retired from service on dates ranging from 2011 to 2015. They claim that they have discharged duties and responsibilities of the post of Block Development & Panchayat Officer and superannuated during the ad hoc arrangement. However, it is not the case that they were substantively promoted to the post of BDPOs before retirement or litigated afterward for retroactive promotions. They presently claim in this petition filed in mid 2016 arrears of difference of pay of the two posts for shouldering duties of higher responsibilities on the principle of *quantum meruit* or by applying the principles of 'equal pay for equal work'. They rely on the decision of the learned Single Judge delivered in

CWP No.4445 of 2015 decided on December 07, 2015 titled *Sita Ram v. State of Haryana* for claiming the same relief. However, there appears from the order to have been no delay in Sita Ram approaching Court for similar relief given the relevant dates recorded in the order.

2. Be that as it may, learned counsel for the petitioners submits that his clients have collectively served a legal notice (Annex P-6) claiming relief of difference of salary. They have relied on the rulings of the Supreme Court in Selvaraj v. Lt. Government of Island, Port Blair and others, 1998 (4) RSJ 22 and in case Arindam Chattopadhyay and others v. State of West Bengal and others, 2013 (3) RSJ 230 and the orders of the learned Single Judge in *Sita Ram's* case. The legal notice was issued on May 20, 2016 and the same is stated to be pending. Therefore, the view of the Government is not known on the legal notice, both on the merits of the claim and on the point of limitation, delay and laches with respect to the causes of action and the right to sue and accordingly without making any comment on these and other aspects, so there is nothing tangible to judicially review at this stage. In *Sita Ram* case the issue as to entertainment of petition were not directly considered, that is, on the point of bar of limitation, delay and laches without sufficient explanation.

3. In these circumstances, a direction is issued to the decision-maker amongst the respondents to consider and decide the legal notice and pass a final order thereon. The decision-maker will in this exercise remain guided by the decisions of the Supreme Court in Union of India and another v. M.M. Sarkar, (2010) 2 SCC 1126, State of Uttaranchal and another vs. Shiv Charan Singh Bhandari and others, (2013) 2 SCC 179 and C. Jacob v.

Director of Geology & Mining of Ministry and Anr., (2009) 10 SCC 115 since the claim is essentially for recovery of money and would remain hedged by Article 113 of the Limitation Act, 1963.

4. In consideration of the legal notice, a smaller group of the petitioners, since they are large in numbers, if make a request for personal hearing the request would be accepted but no more than three of them would be heard to represent the rest of the petitioners. The final order be communicated thereafter. Let the consideration take place within two months from the date of receipt of certified copy of this order and in case, hearing is not required and relief is to be granted. However, in case adverse orders are contemplated, then hearing would become essential to accommodate opportunity of hearing for that the period of decision making would stand extended by another month.

5. Petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

21.07.2016
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