

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.***

CWP No.19431 of 2014

Date of Decision: 19.08.2016

Malkeet Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Umesh Kumar Kanwar, Advocate
for the petitioners.

Mr. Pankaj Mulwani, D.A.G., Punjab
for the respondent-State.

Mr. Vikas Singh, Advocate
for respondent No.3.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of *certiorari* for quashing of order dated 03.02.2014 (Annexure P-6), whereby, the petitioners have been granted benefits with immediate effect instead of granting benefit of special pay allowance w.e.f. 01.10.2010 as per their entitlement in view of Government Notification dated 05.07.2011 (Annexure P-2).

Briefly, the facts of the case are that the petitioners are working as drivers in the Office of respondent No.3 i.e Managing Director Sugar Federation Punjab, Chandigarh. They are also performing their duties after the working hours, not only during working days but during holidays as

well as on Sundays. They were granted an amount of ₹ 300/- per month as special pay allowance, whereas, as per Government Policy, an amount of ₹ 700/- per month is being paid to the drivers.

Learned counsel for the petitioners submits that earlier the special pay/allowances of the drivers was not equal to the drivers working with the VIP, Minister at Raj Bhawan Civil Secretariat. CWP No.490 of 1987 was filed by some of the drivers for issuance of a direction to the Government to grant pay scale and allowance as granted to the drivers working at Punjab Raj Bhawan, Ministers Car Section, Punjab Civil Secretariat and Office of Financial Commissioners. The said petition was disposed of with a direction that the petitioners in that writ petition were also performing the similar duty after the office hours on holidays and Sundays and at odd hours were also entitled to the similar benefits of the special pay as being paid to other drivers.

In compliance of order passed in the said petition, a notification was issued on 05.07.2011. The petitioners were granted benefits w.e.f 01.10.2010 but they were also entitled for arrears.

Learned counsel for respondent No.3 opposes the submissions made by learned counsel for the petitioners and submits that the petitioners have already been paid special pay allowances of ₹ 1400/- per month as per recommendation of 5th Pay Commission but keeping in view the financial constraints, an amount of ₹ 300/- per month was paid. Learned counsel also submits that the petitioners cannot claim enhanced allowances w.e.f 01.10.2010 as the recommendations of 5th Pay Commission were never implemented in Sugar Federation with effect from the date it was implemented qua the employees of Punjab Government. The special

allowances of drivers of Sugar Federation have been enhanced to ₹ 1400/- per month from the respective dates as has been mentioned in the writ petition. Learned counsel also submits that the notification dated 20.05.2011 cannot be made applicable to the case of the petitioners and hence, they cannot claim the same benefits at par with the employees of State Government.

Heard the arguments of learned counsel for the parties and have also gone through the documents available on the file.

Admittedly, the petitioners are working as drivers in the office of respondent No.3. They were granted special pay at the rate of ₹ 300/- per month for working during holidays including Sundays. At that time, the Government of Punjab granted ₹ 700/- per month to the drivers working in Secretariat/Civil Secretariat/Raj Bhawan and the drivers working with the Commissioners. Some of the drivers filed **CWP No.490 of 1987** for grant of same allowances as being given to the drivers working in Punjab Raj Bhawan, attached with the Ministers Car Section, Punjab Civil Secretariat, Financial Commissioners Office etc. The said petition was disposed of with a direction that the petitioners in that petition were also performing the same duties and accordingly, they may also be granted the same allowances at par with the employees working with VIPs as well as the drivers working in Punjab Raj Bhawan and Civil Secretariat. In compliance of order passed in the above petition on 05.09.2008, a notification dated 05.07.2011 was issued by the State Government and special pay allowance was enhanced from ₹ 700/- per month to ₹ 1400/- per month for the drivers working in the departments/offices other than the Secretariat as well as the office of Commissioners. It was also made applicable to all the departments,

Commissioner of Division as well as High Court of Punjab and Haryana, Registrar, District and Sessions Judge and also the Deputy Commissioner in the State of Punjab with effect from 01.10.2010.

During arguments of the case, learned counsel for the petitioners has also submitted that the petitioners were not only granted less amount of ₹ 300/- per month but it was also stopped. Petitioners were paid an amount of ₹ 300/- per month, whereas, it was paid to other employees at the rate of ₹ 700/- per month. The claim of the petitioners is that they are entitled for special pay/allowances at the rate of ₹ 1400/- per month with effect from 01.10.2010 and also for arrears of allowance along with interest. A representation was also made by the petitioners on 08.08.2012 but no action has been taken thereupon.

The petitioners are claiming benefit of enhanced special pay allowance with effect from 01.10.2010 as has been granted to the employees working in other offices as in view of a notification issued by the State Government on 05.07.2011, whereby, the amount has been enhanced to ₹ 1400/- per month. The other employees were granted benefit of enhanced special pay allowance. Petitioners have claimed the said relief w.e.f 01.10.2010. Admittedly, the petitioners were not party to the writ petition, on the basis of which, the amount of special pay/allowances was increased. Accordingly, the petitioners can be held entitled for the same benefit with effect from the date of making representation dated 08.08.2012.

In view of the above, the present petition is allowed and the respondents are directed to pay the enhanced amount to the petitioners with effect from the date of making representation i.e 08.08.2012. The respondents are also directed to pay the arrears of amount to all the

petitioners within a period of three months from the date of receipt of certified copy of this order.

19.08.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes