

IN THE HIGH COURT OF PUNJAB & HARYANA ATCHANDIGARH

-:-

Civil Writ Petition No. 19589 of 2015

Date of decision : March 31, 2016

Gurvinder Kumar & Anr.

... Petitioners

versus

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. P.S.Khurana, Advocate, for the petitioners.

Dr.(Mrs.) Puneet Kaur Sekhon, Addl. A.G., 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)

Having regard to the order dated 31.01.2008 at Annex P/12, there can be no doubt that the petitioners while serving as work mistries were given additional charge to the post of Junior Engineer (Civil) with the condition that the charge could be taken back without giving any notice. There was also a condition in the letter that the arrangement would not lead to seniority and financial benefits. So far as the seniority is concerned there is no dispute that they cannot take seniority, they are promoted from the past of Work Mistries to that of Junior Engineer (Civil). However, the condition that financial benefits will not be given on the additional charge is contrary to the law declared in the case of Smt. P. Grover Vs. State of Haryana (1983) 4 SCC 29 and Selvaraj Vs. Lt. Governor of Island Port Blair & Ors. 1998 (4) RSJ 22.

Learned counsel for the petitioners refers to numerous decisions of this Court in Single and Division Benches. The additional charge continued till it was withdrawn on 02.05.2013. In view of the legal position, the petitioners are entitled to the differences of arrears of salaries

for discharging duties and responsibilities of the higher posts. It has not been disputed before this Court that the petitioners did not discharge the duties and responsibilities attaching to the post of Junior Engineer (Civil) in the divisions where they were posted.

Accordingly, this petition is allowed. The impugned in action of the respondents by not paying the petitioners the arrears of differences of pay of the lower and higher post is declared illegal.

Learned State counsel submits that in view of their directions issued by this Court, the Chief Secretary, Punjab is seized of the matter for formulating the policy so that such cases can be decided at the level of Government and not by this Court only to burden it further. Notwithstanding the ongoing process of issuing policy instructions the prayer of learned State counsel cannot be accepted as the matter is adjourned to await policy since the policy will only reflect judicial binding precedents of the Supreme Court. It may be remembered that Article 144 of the Constitution mandates of Judicial and Civil authorities within the territory of India to act in aid of the Supreme Court to honor its judgments and to implement with faithfull aid, once the law is declared. I do not see any reason to postpone the rights of the petitioners to await the policy in the making. The in action of the respondent is therefore quashed. The condition in the order dated 31.01.2008 that the petitioner would not be entitled to any financial benefit flowing from the additional charge is declared unlawful. The condition is set aside so as not to be read in the impugned order. Since the declaration has come from the Court today, the

request of Mr. Khurana for interest is not tenable as rights to money would flow only on declaration by the Court. However, from today the petitioners would be entitled to the interest @ 6% per annum till two months thereafter they will be entitled to the interest accrued would be @9% per annum till realisation.

March 31, 2016
tripti

(RAJIV NARAIN RAINA)
JUDGE