

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

C.W.P. No. 5307 of 2015

Date of Decision:- 29.08.2016

Ashok Kumar and others

....Petitioners

vs.

Punjab State Power Corporation Ltd. & ors.

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Ashish Grover, Advocate,
for the petitioners.

Mr. B.S. Mittal, Advocate,
for the respondents.

DAYA CHAUDHARY, J. (Oral)

The present petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of Mandamus directing respondents to extend the benefit of judgment rendered in CWP No. 5741 of 2012 titled as **Ajmer Singh and others vs. State of Punjab and others (Annexure P-8)**, decided on 4.4.2013 as said judgment already stands implemented in the case of employees who are similarly situated to the petitioners.

Learned counsel also submits that respondents-State has filed LPA No. 536 of 2015 against the judgment of learned Single Bench but the same has been dismissed. It has been mentioned in the judgment dated 9.8.2016 that judgment of Single Bench has already been implemented.

Learned counsel for the respondents submits that no employee

of respondent-Corporation has been granted benefit whereas the judgment passed in **Ajmer Singh's case (supra)** was of some other department and not of the respondents-Corporation.

Learned counsel for the respondents submits that long delay has occurred in filing the present petition and that delay has not been explained. Learned counsel also submits that the petitioners are getting 12.5% HRA by considering Jagraon city as Category-C vide letter dated 12.08.2009 on the recommendation of 5th Punjab Pay Commission and, as such, the petitioners are not entitled for HRA @ 7.5% for the period from 1997 upto year 2009 in absence of any revised instructions. The claim of the petitioners was rejected by the respondents by passing a speaking order. The respondents-Corporation had followed the pattern of Punjab Government and Jagraon City was not covered under 'C-Class City and as such in the absence of any revised classification of city/town and by considering the population, the petitioners are not entitled for the benefit.

I have heard learned counsel for the petitioners as well as learned counsel for the respondents and also perused the impugned orders available in the file.

On perusal of judgment of Division Bench rendered in case **Satbir Singh and others vs. State of Haryana and others**, 2002 (2) SCT 354, it is apparent that certain directions were issued to respondent-States of Punjab, Haryana and Union Territory, Chandigarh, which are reproduced as under:-

“(i) Where ever the rights of the parties have been settled by a judgment of the Court the State has

been taken all remedies available to it in law against that judgment even up-to the highest court of the land and the judgment has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part of the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months react and respond to a legal notice/representation served upon it by any of its employees for redressal of his grievances/grant of relief, which has been granted to his co-employees similarly situated, in furtherance to the judgment of the Court. Unless, for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the order of the Court.

(iii) In the event of such an employee is compelled to approach the Court of law, where upon the court awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interest paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance.”

In compliance of said directions issued by this Court, the respondents-State has issued instructions dated 17.7.2002 and relief has been granted to similarly situated persons. On perusal of impugned order, it is clear that it has simply been mentioned therein that the petitioners are not entitled for the relief on the basis of judgment in **Ajmer Singh's case (supra)** but the judgment in **Satbir Singh's case (supra)** has not been considered in spite of directions that there cannot be any discrimination on the basis of population of the year 2001. Even in the legal notice, it was specifically mentioned by the petitioners that their case be considered for grant of revised house rent allowance @ 7.5% of the basic pay as per letter dated 9.1.1998, which is the basis for classifying the cities/towns issued in pursuance of implementation of the recommendation of 5th Pay Commission with regard to House Rent Allowance to the petitioners, but no action was taken. It has also been brought to the notice of this Court that the petitioners have been granted benefit since 1.8.2009 but prior to that, the same has not been granted.

Accordingly, in view of the facts as mentioned above, the present petition is allowed and impugned order dated 14.8.2014 (Annexure P-12) is quashed and respondents are directed to reconsider the case of the

petitioners by considering judgment in **Satbir Singh's case (supra)**.

Necessary order be passed within a period of two months from the date of receipt of certified copy of the order. In case the petitioners are found entitled to the relief as claimed, the same be granted to them and in case any adverse order is passed, the petitioners are at liberty to challenge the same in accordance with law.

August 29, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes