

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 25997 of 2016 and other connected matters

Date of decision: 10.08.2017

Mahavir Singh and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ravinder Malik, Advocate,
Mr. Vikas Kuthiala, Advocate,
Mr. Sant Lal Barwala, Advocate,
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. B.R. Mahajan, Sr. Advocate,
with Mr. Sandeep Moudgil, Advocate,
and Mr. Suvir Sehgal, Advocate,
with Tarun Walia, Advocate,
for HBVPN (in CWP No. 24528 of 2016).

Mr. Saurabh Mago, Advocate,
for DHBVNL (in CWP Nos. 9084 of 8990 of 2017)
for UHBVNL (in CWP No. 2783 of 2017).

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 26 writ petitions i.e. CWP Nos. 25520, 26532 and 25997 of 2016; CWP Nos. 910, 1295, 1335, 2035, 2783, 5271, 7595, 7596, 7620, 7629, 8990, 9020, 9074, 9079, 9084, 9085, 9146, 12095, 12585, 12590, 12850, 13099, 13100 of 2017 as common questions of facts and law are involved in all the writ petitions.

The facts are being taken up from ***CWP No. 25997 of 2016, Mahavir Singh and others vs. State of Haryana and others.***

The petitioners challenge the impugned instructions dated 03.06.2014 (Annexure P-5) whereby, minimum wages to the contractual

employees had been fixed at Rs.8,100/- and for quashing letter dated 16.09.2014 (Annexure P-9) issued by the respondent-Nigam whereby, the Board of Directors had granted ex-post facto approval for adoption of the State Government Policy dated 02.06.2014 and 03.06.2014 circulated vide letter dated 12.06.2014 relating to policy for engaging/outsourcing of services/activities.

It is the case of the petitioners that they were appointed on the basis of an advertisement issued by the Nigam on contract basis and were being paid D.C. Rates as fixed by the Deputy Commissioner, Yamuna Nagar as per the table in para no. 6. In view of the impugned order and the instructions dated 03.06.2014 (Annexure P-5), the amounts were reduced. Resultantly, they approached this Court for the payment as was being paid earlier to them and for quashing of the said letter. Similarly, the payment for the period from 01.06.2014 to 31.08.2016 at the enhanced rates has also been sought for alongwith interest @ 18% per annum.

The issue in principle already stands decided in a bunch of cases, lead case of which is ***CWP No. 22428 of 2014, Rajesh Kumar and others vs. State of Haryana and others*** on 13.05.2016. The relevant findings recorded read thus:-

“The respondents are not disputing that the petitioners have been paid since the year 2008 at DC rates.

Learned counsel for the petitioners has placed on record clarifications issued by the Labour Department (Annexures P-12) and by the General Administration Department, Haryana Government (Annexures P-14), whereby it has been clarified that no contractual employee should be paid less than the minimum wages.

It has been further clarified that if a person is getting higher wages, then those cannot be reduced. All the petitioners have not been appointed through outsourcing policy and they are covered by the clarifications issued by the Labour Department and General Administration Department (Annexures P-12 & P-14), as they have been directly engaged by the department as admitted by the respondents as per their contract/agreement (Annexure R-2). Hence, as per clarification given, their wages cannot be reduced as per letter/memo dated 04.09.2014 (Annexure P-9).

In view of the above, all the petitions i.e. CWP Nos.22428, 21398, 21653 21643 of 2014 and 6468 of 2015 are allowed and a direction is given to the respondents to make payment of salary to the petitioners as per clarifications given vide Annexures P-12 and P-14 with all consequential benefits, within a period of 3 months from the date of receipt of certified copy of this order.”

The said view was thereafter followed in ***CWP No. 7086 of 2015, Kuldeep Singh and others vs. Dakshin Haryana Bijli Vitran Nigam and others*** decided on 13.01.2017 wherein, the issue of reduction of pay from Rs.13,660 to Rs.9,840/- was held to be highly arbitrary and by placing reliance upon *Rajesh Kumar's case (supra)* the order dated 04.09.2014 was set aside and resultantly, the Nigam was directed to pay wages @ Rs.13,660/- from the date the sum had been reduced to Rs.9,840/-. It was further directed that the difference be paid within a period of 4 months apart from a direction that the benefit of minimum pay scale attached to the post of ALM was also to be granted. The relevant portion reads thus:-

2.) In the instant writ petition, the petitioners have sought for a direction to consider their names for

regularization with reference to the policy dated 18.6.2014 and 28.7.2014 and further sought for quashing Annexures P-11 dated 4.9.2014 which their pay has been reduced from Rs.13,660/- to Rs.9,840/-.

*Learned counsel for the petitioners fairly submitted that insofar as seeking regularization is concerned, the matter is pending consideration before this Court in some writ petition wherein the policy relating to regularization dated 18.6.2014 has been stayed, therefore, he be permitted to approach this Court as and when cause of action accrues. Insofar as reducing the wages of the petitioners is concerned, it was submitted that reducing the pay from Rs.13,660/- to Rs.9,840/- is highly arbitrary. The matter is covered by decision of this Court in CWP No.22428 of 2014 **(Rajesh Kumar and others Vs. State of Haryana and others)** dated 13.5.2016. He further relies on decision of the Supreme Court passed in Civil Appeal No.213 of 2013 **(State of Punjab and others Vs. Jagjit Singh and others)** dated 26.10.2016.*

3.) On the other hand, learned counsel for the respondents fairly submitted that the petitioners are entitled to wages @ Rs.13,660/- having regard to the decision of this Court and Supreme Court. Having regard to the above facts and circumstances, Annexure P-11 is set aside. The respondents are directed to pay the wages to the petitioners @ Rs.13,660/- from the date the same has been reduced to Rs.9,840/-. The difference of pay shall be released to the petitioners within a period of four months from today. The respondents are also directed to extend the benefit of minimum pay scale attached to the post of Assistant Lineman to the petitioners having regard to the decision of the Apex Court cited supra. Such exercise

shall be taken by the respondents within a period of four months from today.

4.) Petitions stands disposed of.”

Accordingly, keeping in view the above since the matter in principle already stands decided, the present writ petitions are also disposed of in the same terms as in *Rajesh Kumar and Kuldeep Singh's case (supra)* to the extent that the petitioners will be paid the arrears for approximately two years at the initial rate which they were being paid. However, the payment be made within a period of 3 months from the date of receipt of certified copy of the order. The prayer for minimum of the pay scale in view of the judgment in ***State of Punjab and others vs. Jagjit Singh and others, 2016 (4) SCT 641*** case will be decided by the respondents within a fixed time frame also of two months.

10.08.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

