

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

DECIDED ON: AUGUST 08, 2018

1.) CWP NO.7775 OF 2014

ROOP LAL AND ANOTHER

.....PETITIONERS..

V.

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS..

2.) CWP NO.7716 OF 2014

THURU RAM

....PETITIONER..

V.

STATE OF PUNJAB AND ORS.

....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ankush Sharma, Advocate for
Mr. M.K. Dogra, Advocate for the petitioner(s).

Mr. Navdeep Chhabra, Additional Advocate General, Punjab.

JASPAL SINGH, J.

By this common order, this Court intends to dispose of two petitions i.e. CWP No.7775 of 2014 filed by Roop Lal and another and CWP No.7716 of 2014 filed by Thuru Ram, as common question of law and facts is involved. However, the facts are being extracted from CWP No.7775 of 2014.

2. The petitioners have sought issuance of a writ in the nature of certiorari quashing the impugned order dated 22.11.2013 (P-5) passed by respondent No.3. And further a writ in the nature of mandamus directing the respondents to pay salary/emoluments of higher post of Junior Engineer, for the period, the petitioners had officiated against such post along with interest and all

other consequential benefits, in accordance with Government instructions dated 20.07.2011 (P-2).

3. The contention of learned counsel for the petitioners is that petitioners were initially appointed as Work Munshi and, thereafter, they successfully qualified the test for the promotion of Junior Engineer on 31.07.2006. Later on, the petitioners were given the additional charge for the post of Junior Engineer (Civil) vide order dated 30.01.2008 and while serving at same post, petitioners were retired on 31.03.2010 and 30.10.2009 respectively, but they were not given any extra benefit for performing the duties on higher post. However, Govt. of Punjab, Department of Finance issued instructions dated 20.07.2011 with regard to fixation of pay of government employee on appointment to a post involving the assumption of duties and responsibilities of greater importance and as per these instructions, petitioners are entitled to higher pay scale of the higher post for the period they officiated against such post. Even, petitioners moved representations to the respondents but no action has been taken. He further submits that petitioners feel satisfied in case direction is issued to respondents to release the benefits, within a stipulated period.

4. On the other hand learned State counsel has submitted that it is an admitted fact that petitioners were given additional charge as Junior Engineer (Civil) vide order dated 30.01.2008 but with the conditions that no seniority/financial benefits shall be given to them in lieu of above additional charge and this additional charge can be withdrawn at any time without notice and in the event of regular recruitment of junior engineers against the direct recruitment. Thus, the petitioners are not entitled to higher pay and the petition

is liable to be dismissed.

5. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and perused the record available.

6. By now, it is well settled that an employee, who is called upon to discharge the work and duties of a higher post would be entitled to the pay and emoluments of such higher post. Reference in this regard may be made to a judgment of Hon'ble Apex Court passed in Civil Appeal No.2521 of 2013, titled as ***“Arindam Chattopadhyay and others v. State of West Bengal and others”*** decided on 13.03.2013 as well as in case titled as ***“Smt. P. Grover v. State of Haryana and others, 1983 (3) SLR 474***, wherein the petitioners were granted pay/emoluments for the period during which they held additional charge of higher posts.

7. Accordingly, the present writ petition is allowed. The petitioners are held entitled to the pay/emoluments of the post of Junior Engineers (Civil) for the period that they held the additional charge of such higher post. The requisite benefits be calculated and released to the petitioners within a period of three months from the date of receipt of certified copy of this order.

8. However, if the petitioners still feel aggrieved against any of the order(s) passed by the concerned authority, they shall be at liberty to have recourse to the other remedies available to them as well as to approach this Court.

AUGUST 08, 2018

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***Whether speaking/reasoned* Yes**

***Whether reportable* Yes/No**

**(JASPAL SINGH)
JUDGE**