226 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9818 of 2016 (O&M)
Date of Decision: 11.07.2018.

Balbir Chand

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

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

Ms. Harsimrat Rai, DAG, Punjab.

JITENDRA CHAUHAN.J.(ORAL)

The petitioner being a Work Mistri was given the additional charge of Junior Engineer (Civil) at Bathinda. The claim raised in the present petition is for higher remuneration for performing the duties against the superior post.

It is asserted that the similar relief was allowed by this Court by order dated 06.12.2012 passed in CWP No. 13002 of 2012, Annexure P-4 to which a challenge was laid in LPA No. 493 of 2013 which was subsequently dismissed vide order dated 09.04.2014, Annexure P-5. The SLP filed in the matter was dismissed on the ground of delay by Hon'ble the Supreme Court vide order dated 27.07.2015, Annexure P-6.

The operative part of the judgment rendered in CWP No.13002 of 2012, Annexure P-4 reads as under:-

Sanjay
2018.07.18 10:40
I attest to the accuracy and
integrity of this document

> *It is by now well settled that any 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 the Hon'ble Apex Court in the case of* ***Smt. P. Grover Vs. State of Haryana & others 1983 (3) SLR 474****. In the case of Smt. P. Grover (Supra), the petitioner therein had been granted the officiating charge of the District Education Officer with a clear stipulation that she would continue to draw her salary as per pay scales on the lower post and it had been categorically held that the denial of the scale of the post of District Education Officer, the officiating charge of which had been granted to her, was arbitrary and not justified.*
>
> *Accordingly, the present writ petition is allowed. The petitioners are held entitled to the pay/emoluments of the post of Junior Engineers for the period that they held the additional charge of such higher post i.e. for the period from 14.07.2009 to 21.05.2012 in respect of petitioner no.1 and for the period from 18.08.2008 to 21.05.2012 in respect of petitioner no.2. The requisite benefits be calculated and released to the petitioners within a period of two months from the date of receipt of a certified copy of this order.*
>
> *Disposed of."*

Learned counsel refers to orders, Annexure P-8 and P-9 to contend that a large number of identically placed persons have been allowed similar relief by the respondents. It is further submitted that the condition "that the petitioner would not be entitled to any financial benefit flowing from the additional charge" which puts a rider upon the right of the petitioner to claim higher wages has also been quashed by order dated 31.03.2016 passed by this Court in CWP No. 19589 of 2015, Annexure P-12.

Learned State counsel has not been able to controvert the factual position asserted by the learned counsel for the petitioner.

In the circumstances, the present petition is allowed in terms of order dated 31.03.2016 passed in CWP No. 19589 of 2015 titled as "Gurvinder Kumar and another vs. State of Punjab and

Sanjay
2018.07.18 10:40
I attest to the accuracy and
integrity of this document

another", Annexure P-12. Consequently, the respondents are directed to release the amount of pay/emoluments of the higher post to the petitioner within six weeks from the date of receipt of copy of the judgment.

11.07.2018. **(JITENDRA CHAUHAN)**
SN **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

Sanjay
2018.07.18 10:40
I attest to the accuracy and
integrity of this document