

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7642 of 2018 (O&M)

Date of Decision:28.3.2018

Nihal Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ashok Kumar Virdi, Advocate for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the petitioner and have perused the paper-book. Since the point involved in the matter is no longer res integra, the same can be disposed of without issuing notice to the other side.

2. The petitioner has approached this Court claiming full salary of the post of Sub Divisional Officer/Assistant Engineer (SDO/AE) on the ground that he was transferred and posted in public interest to discharge duties of the higher post of SDO/AE in the substantive rank of Junior Engineer-I in DHBVN, Bhiwani. Though the order records that the posting is in his own pay scale, it would not make any difference because of the settled legal position that an employee who is made to discharge the full duties and responsibilities of the higher post on current duty charge is entitled to be paid the difference of salary of the two posts on the principle of 'equal pay and equal work' and on the doctrine of *quantum meruit*. The legal position was settled long ago in a matter arising in Haryana in Supreme Court case reported as Smt. P. Grover vs. State of Haryana and another, (1983) SCC 4 291 and numerous decisions of this Court following the law declared. Besides this, the petitioner has relied on an

No.16541 of 2015 decided on 29th November, 2016). The said petition was disposed of after noticing the facts which are similar to the present petition, except on the issue of promotion, which is not involved. The learned Single Bench has directed the same respondent, to pay the salary of the higher post whereon he had been accorded the current duty charge of the post. In view of the settled position, the order has been implemented in the case of *P.D.Kaushik*, *supra* vide office order dated 29th July, 2017 (Annex. P-5).

3. In view of the above, this petition is allowed and the respondents are directed to consider payment of arrears of difference of salary of the post of SDO/AE and JE-I from 13th May, 2014 onwards with all consequential benefits of pay and allowances. It may be noted that once the respondent-Nigam has been directed by this Court in similar circumstances to pay the difference of arrears, it was not proper for the respondent-Nigam not to have granted this relief to the petitioner by themselves. For compelling the petitioner to approach this Court, the respondent-Nigam is saddled with costs of ₹ 20,000/- to be paid to the petitioner. The arrears be calculated and paid to the petitioner within two months from the date of receiving of a certified copy of this order. If the amount is not paid within a period of two months, then the amount in default would earn interest at the rate of 9% per annum.

28.3.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No