

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-26598-2015 (O&M)
Date of Decision: 12.03.2020

Gurjant Singh & others

--Petitioners

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sunny Singla, Advocate for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioners herein were serving as Masters/Mistress/Lecturers under the Haryana State Education Department. Instant writ petition is directed against the orders dated 10.9.2014 and 11.9.2014 (both appended at Annexure P-12) passed by the Director, Secondary Education, Haryana declining the claim of the petitioners for release of pay and emoluments in respect of the higher post of Principal/Head Master against which the petitioners had been called upon to discharge their duties.

Counsel for the parties have been heard at length.

The categoric averment made in the petition as regards petitioners having worked against the higher post of Principal/Head Master over varying periods of time has not met with any specific rebuttal in the written statement. The orders appended as Annexures R-1 to R-6 along with the written statement would show that the petitioners had been called upon to exercise the powers of Drawing and Disbursing Officer in the capacity of Principal as also to look after the work of the schools mentioned against their names in addition to their own duties.

In the reply, rejection of the claim of the petitioners is sought to be justified on the basis that there was a clear stipulation in the orders at Annexures R-1 to R-6 that the petitioners would continue to draw pay scales on the substantive post that they were holding.

In the considered view of this Court, the reasoning adopted in the impugned orders dated 10.9.2014 as also 11.9.2014 (Annexure P-12) cannot sustain.

It is by now well settled that the State shall now deny to its employees the pay and emoluments of a post against which such employees had been called upon to work. Reference in this regard may be made to the judgement of the Hon'ble Supreme Court in ***P.Grover Vs. State of Haryana, 1983 AIR (SC), 1060***. The facts in ***P.Grover's*** case (supra) were that the appellant therein two years prior to attaining the age of superannuation had been given the officiating charge of District Education Officer. The Apex Court while admitting the claim of the appellant to be released the pay and emoluments of the higher post had observed that in the absence of any rule justifying refusal to pay to an officer promoted to a higher post, the salary of such higher post, the employee in question is entitled to be paid the salary of the post of District Education Officer against which she had officiated. It would be apposite to take note that even in the case of ***P.Grover***, the order of promotion contained a superadded condition that she would continue to draw her own pay scale i.e. she would continue to draw her salary in the pay scale prior to promotion. In spite of such specific condition contained in the order of promotion and vesting the charge of the higher post of District Education Officer to P.Grover, she was held entitled to the salary of the higher post against which she had discharged the duties and responsibilities.

The dictum laid down in *P. Grover's* case (supra) has thereafter consistently been followed by this Court in a catena of judgements.

For the reasons recorded above, the impugned orders dated 10.9.2014 and 11.9.2014 (Annexure P-12) are set aside.

Petitioners herein are entitled to the pay and emoluments of the higher post of Principal/Head Master for the period they had actually discharged their duties and responsibilities of such post. The necessary financial benefits be calculated and be released to the petitioners within a period of four weeks from the date of receipt of a certified copy of this order.

Petition is allowed.

(TEJINDER SINGH DHINDSA)
JUDGE

12.03.2020

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No