

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25802-2016 (O&M)
Date of decision: 19.02.2020

Mahabir Singh and others

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Eklavya Gupta, Advocate
for the petitioners.

Mr. Randhir Singh, Advocate for
State of Haryana.

RITU BAHRI, J. (Oral).

The petitioners are seeking direction for quashing of order dated 11.11.2016 (Annexure P-10) whereby claim of the petitioners for equal pay for equal work has been rejected.

The brief facts of the case are that pursuant to letter dated 28.08.1990 (Annexure P-1), staff of Panchayat Bhawan, Hissar was proposed by Deputy Commissioner to Financial Commissioner and Secretary to Government Haryana Development and Panchayat Department. The Government gave approval that the staff proposed by Deputy Commissioner is more than the requirement and the Deputy Commissioner was advised to employ minimum staff on daily wages as per letter dated 26.02.1991 (Annexure P-2). The petitioners were thereafter appointed and vide order dated 17.01.1996 (Annexure P-3), out of 10 petitioners, five petitioners were given the running pay scale of Rs.750-1-870-EB-940 with usual allowances w.e.f. 01.01.1996 as admissible under the Haryana

Government Rules. The petitioners have also placed on record order dated 17.01.1996 (Annexure P-4) whereby one of the petitioners Mahabir Singh was promoted to the rank of Accountant Clerk, Panchayat Bhawan, Hissar by the Managing Committee. Similarly vide order dated 08.07.2002 (Annexure P-5), petitioner No.3 Wazir Singh was promoted to the rank of Clerk. Learned counsel for the petitioners have further placed on record order dated 21.02.2002 (Annexure P-6) whereby the petitioners executed agreement deed with Panchayat Bhawan and in this agreement, it is stated that they are the employees of Panchayat Bhawan, Hissar in the pay scale mentioned against each w.e.f. 01.02.2002 and there is no question of parity with Govt. officials. Despite this agreement, the employees were given dearness allowance, CCA and medical allowance etc. Pursuant to order dated 21.02.2002 (Annexure P-6), affidavit cum agreement was prepared by the District Development & Panchayat Officer, Hissar for each petitioner and all the petitioners were made to sign the same (Annexure P-7 colly) reiterating the condition that the employees of the Panchayat Bhawan will not be considered as an employees of the Haryana Govt. and they would not be entitled to claim any parity with the Government servant. The petitioners further stated that in the year 2009, they were given revised functional pay structure on the pattern of Haryana Civil Service (Revised Pay) Rules 2008 alongwith dearness allowance and medical allowance and they were made to sign agreement with Panchayat Bhawan stating therein that the employees of Panchayat Bhawan will not ask for parity with Govt. employees.

The petitioners are now claiming parity of regularization and are also seeking minimum of the regular pay scale as per the Supreme Court

judgment passed in ***Civil Appeal No. 213 of 2013*** titled as ***State of Punjab V/s. Jagjit Singh*** decided on 26.10.2016. The petitioners served a legal notice dated 20.10.2016 to the respondents (Annexure P-9). In response to legal notice, the District Development and Panchayat Officer-cum-Secretary Member, Hissar had rejected the claim of the petitioners vide order dated 11.11.2016 (Annexure P-10). Hence, the present writ petition has been filed.

On notice of this writ petition, reply by way of affidavit of District Development & Panchayats Officer, Hissar has been filed on behalf of respondents No. 1 to 5 on 19.04.2017 in which it has been clarified that petitioners are never Govt. employees and cannot claim regularization. The petitioners were recruited for the purpose of maintenance of Panchayat Bhawans which are constructed by the funds of Zila Parishad and Village Panchayats and maintained by 0.75% income from Shamilat Land and all being Panchayat Samitis fall in District Hissar and are never under the control of State Govt. and the petitioners are bound by the agreements (Annexure P-7 colly) and since they are not the employees of Haryana Govt., the judgment of ***Jagjit Singh's case (supra)*** is not applicable. Another short affidavit of District Development and Panchayats Officer has been filed on 18.10.2018 whereby it has again been clarified that no amount of budget is sanctioned by the Government for the recurring expenditure incurred in the maintenance and payment of salary to the staff engaged for the day to day functioning of Panchayat Bhawan. Rather on the request of the then Deputy Commissioner, Hissar, the Govt. vide letter dated 15.03.2001 had declared 0.75% as fit charge on the income from the shamilat land in all the Gram Panchayat of the District and this amount is

the major source of revenue for maintenance and payment of salary to the employees of Panchayat Bhawan. It is further stated therein that other than the amount received from shamilat share, income is received by booking of Panchayat Bhawan for the purpose of marriages, meetings and others functions and further the petitioners are bound by their affidavit-cum-agreement that they are not the employees of Haryana Government.

A perusal of the affidavit dated 18.10.2018 makes it abundantly clear that State Government is not sanctioning any budget for the day to day functioning of the Panchayat Bhawan including salary to the staff of Panchayat Bhawan. If any promotions are given to the petitioners while working in the Panchayat Bhawan, these are given solely by the Panchayat Bhawan being an independent agency and since the Government is not sanctioning any budget, the Government is not bound by any promotion given by Panchayat Bhawan and petitioners are bound by their agreement and cannot claim benefit of minimum of the regular pay scale as well as regularization.

Dismissed.

Pending application also stands disposed of.

(RITU BAHRI)
JUDGE

19.02.2020

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No