

CWP No.3234 of 2017 (O&M)
Date of Decision: 05.03.2020

Sunil Kumar

.....Petitioner

Versus

Chairman-cum-Managing Director, Uttar Haryana Bijli Vitran Nigam

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. S.P. Arora, Advocate
for the petitioner.Mr. Deepak Manchanda, Advocate
for the respondent.**NIRMALJIT KAUR, J. (ORAL)**

The prayer in the present petition is for setting aside the order dated 31.01.2017 (Annexure P-8), vide which, the representation made by the petitioner dated 27.09.2016, seeking to pay for the period while he was holding current duty charge i.e. from 07.08.2009 to 19.07.2010 and further for a period w.e.f. 10.04.2013 to 16.08.2016.

Reply has been filed. As per the said reply, the petitioner was not entitled to the same in view of order dated 17.07.2010 (Annexure P-3), vide which, he was given the current duty charge purely in his own pay scale and this fact was known to the petitioner.

Learned counsel for the respondent is not able to dispute or point out anything contrary to the settled proposition of law in various judgments rendered by this Court and Hon'ble the Apex Court as also rendered by Full Bench of this Court in the case of Subhash Chander Vs. State of Haryana and others, 2012 (1) RSJ 442 as also the latest judgment

rendered by this Court in the case of State of Haryana Vs. Sita Ram, LPA

No.1491 of 2016, decided on 27.11.2019, holding therein that the Corporation in the said case could not debar any employee on the officiating position. Even, as per the judgment rendered in the case of Subhash Chander (supra), it was held in para 17, which reads as under:-

“17. In view of the above, the question posed in para No.1 is answered in affirmative and it is held that if an employee is appointed to officiate on a post involving assumption of duties and responsibility of greater importance than those attaching to the substantive post then he would be entitled to the salary of his officiating post in higher grade. Accordingly, the petitioner is held entitled to the higher pay scale from the date he has assumed the charge of the post of Secretary with all consequential benefits including promotion. His pay may be refixed and the arrears of his pay shall be calculated from the date when he has been officiating on the post of Secretary, Municipal Committee. The payment of arrears shall be made within three months from the date of receipt of certified copy of this order with all consequential benefits.”

The issue is no more res-integra in view of the above mentioned judgments.

Accordingly, the present writ petition is allowed and the order dated 31.01.2017 is set aside. The respondents are directed to pay the salary for the period from 07.08.2009 to 19.07.2010 and from 10.04.2013 to 16.08.2016, while he was officiating worked.

The same be paid to the petitioner from the date of filing of present writ petition till it is actually paid alongwith interest @ 6%. Needful

be done within two months from the date of receipt of certified copy of this order. In case, the needful is not done within two months, the respondents are liable to pay the same with 12% interest after the expiry of two months.

05.03.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No