

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.17995 of 1995 (O&M)
DATE OF DECISION: 01st AUGUST, 2022

Harinder Singh and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Tahaf Bains, Advocate,
for the petitioners.

Ms. Harsimrat Rai, Deputy Advocate General, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant the benefits of medical reimbursement/allowance, travelling allowance, terminal benefits, Ex-gratia etc. and other allowances to the petitioners, as are being paid to the regularly employed staff of the same department in view of the judgment of the Apex Court in the case of *Rattan Lal and others Versus State of Haryana and others, 1985 (3) SLR 548*.

It is not even in dispute that during the pendency of the present petition, the petitioners have been paid all other benefits except the travelling allowance.

The counsel for the petitioners has submitted that, in fact, the respondents had taken a decision dated 26.02.1998 to pay the fixed rate daily allowance in lieu of the travelling undertaken by the workmen, vide Annexure P-7. The respondents were even asked by this Court to file affidavit qua this policy and the amendment thereto. However, the respondents have not filed the affidavit so far. Hence, the adverse inference has to be drawn against the respondents qua Annexure P-7.

On the other hand, the counsel for the respondents has submitted that the respondents had already put up their stand by the written statement filed by them, as well as, by the additional affidavit filed earlier. The petitioners were not covered for the benefits of grant of travelling/daily allowance.

Since the respondents have not filed the affidavit as per the direction of this Court, therefore, the adverse inference is drawn against the respondents qua the document at Annexure P-7. Accordingly, it is assumed by the Court that the daily allowance rates were fixed by the Standing Committee of the Ranjit Sagar Dam and the same was even approved by the Finance Department. The amount of this allowance was to be paid to the workman undertaking travel for going to duty.

However, a perusal of the document at Annexure P-7 shows that it creates several categories entitling them to various degrees of travelling allowance, which is converted to rates of daily allowance on rationalization basis. There are certain categories which are entitled to the higher rates, than there are categories which are entitled to some lower rates and also there are categories which are not entitled to any benefits even under the document at Annexure P-7. But there is no factual

material or even the factual assertions; placed on record by the petitioners as to whether anyone of the petitioners were actually entitled to any benefit under any one of above said categories; as mentioned in Annexure P-7. The aspect of entitlement of the individual workman to the benefits under Annexure P-7 is a question of fact which was required to be pleaded by the respective petitioners with reference to the conditions of entitlements at Annexure P-7. However, there is not even any pleading in the petition to that effect.

In view of the above, finding no more entitlement of the petitioners qua the travelling/daily allowance, the present petition is dismissed as having been rendered as infructuous qua the claims made in the present petition.

The pending miscellaneous application, if any, is also disposed of as such.

01st AUGUST, 2022
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*