

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-14130-2018 (O&M)

Date of decision: 06.07.2023

JARNAIL SINGH AND OTHERS

...Petitioners

VERSUS

**THE PUNJAB STATE POWER CORPORATION
LIMITED AND OTHERS**

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. H.K. Brinda, Advocate
for the petitioners.

None for respondent No.1.

Mr. Vishal Gupta, Advocate
for respondents No.2 to 5-PSTCL.

DEEPAK MANCHANDA, J.(ORAL)

CM-9844-CWP-2023

This is an application under Section 151 CPC to place on record a replication by way of an affidavit of Jarnail Singh, petitioner, to the reply of respondents Nos.2 to 5.

For the reasons mentioned in the application, the same is allowed.

The replication is taken on record.

CWP-14130-2018 (O&M)

1. Through this petition, petitioners have sought directions to the respondents for the grant of allowances as paid to the similarly situated employees and the matter being squarely covered in the line of judgments

passed by this Court and upheld by the Hon'ble Apex Court.

2. The facts emanated from the pleadings of this case are that the petitioners are the employees of respondents No.2 to 5 and worked on the post of Telephone Mechanic and Junior Engineers-II in the Power Line Communication Wing of the respondent-Corporation at various places including Guru Gobind Singh Thermal Plant, Ropar. Their duties were to maintain the Power Line Communication between various wings of the Punjab State Transmission Corporation Limited and Punjab State Power Corporation Limited at their place of posting with other places located at Patiala as well as in other parts of Punjab. Petitioners raised their grievance regarding payment of certain allowances, as mentioned in para 7 of the petition, being paid to the similarly situated employees of Punjab State Transmission Corporation Ltd. working in Construction Wing as well as in O&M Wing of Guru Gobind Singh Super Thermal Plant and prayed that the petitioners are also entitled to same benefits. Since the same benefits were not extended to the petitioners, a legal notice dated 9/3/2018 was sent, which was replied by stating that as the petitioners had been working in different category of the Power Line Communication Wing, therefore, they were not entitled to the same. Aggrieved by not acceding to the prayer of the petitioners, this petition was filed.

3. Learned counsel for the petitioners has submitted that similarly situated employees approached this Court by filing CWP-11115-1994 titled ***“Jugal Kishore and others Vs. The Punjab State Electricity Board and others”*** which was allowed vide judgment dated 29.08.2012 (Annexure P-1) and LPA-90-2013 filed by the respondent-Corporation, challenging the same was dismissed on 01.09.2014. Thereafter, the respondents preferred Special Leave Petition before the Hon'ble Supreme Court, which was also dismissed

on 12.10.2017 (Annexure P-3) and the judgments passed by this Court were upheld. Learned counsel for the petitioners submits that the present petition is squarely covered by the aforementioned judgments, therefore, the petitioners are entitled to the same benefits as granted to the other employees in the light of the said judgments. Learned counsel further submits that a legal notice dated 09.03.2018 was sent to the respondents on behalf of the petitioners, but vide reply dated 04.04.2018, the respondents refused to grant the relief and pay the allowances as prayed by the petitioners, which is violative to the judgments passed by this Court and upheld by the Hon'ble Apex Court.

4. Learned counsel for respondents No.2 to 5 while referring to the reply dated 02.01.2019 has submitted that the petitioners are seeking benefit of incentives and other allowances to employees of the Guru Gobind Singh Super Thermal Plant, Rupnagar, who worked in the different Wings, whereas the said benefit had been granted only to the officers and employees posted in the O&M Wing of Guru Gobind Singh Super Thermal Plant, Rupnagar, in connection with Power Generation and not to other employees including the present petitioners, who are engaged in carrying out the communication services. He further submits that petitioners are carrying out different activities, i.e. communication services and exchanging messages which do not include work of hazardous nature. Hence, they are not entitled to the benefits being granted to the other employees.

5. Heard the learned counsel for the parties.

6. The judgments passed by the coordinate Bench of this Court, which were upheld upto the Hon'ble Apex Court are not in dispute and the same would show that the petitioners are also entitled to similar relief as granted by this Court to similarly situated employees. A perusal of the

judgment passed in CWP-11115-1994 dated 29.08.2012 titled “***Jugal Kishore and others Vs. The Punjab State Electricity Board and others***” reveals that the co-ordinate Bench of this Court dealt with a similar issue and granted relief to the petitioners therein as claimed by the present petitioners. The relevant para of the said judgment is reproduced below:-

“On due consideration of the matter, I am of the opinion that it cannot be denied that the petitioners are working on the maintenance of power line communication as asserted by the respondents, but if the claim of the petitioners is to be construed, then they are working on the maintenance of the exchange. Be that as it may, the question still remains that the petitioners are working for Guru Gobind Singh Thermal Plant, Ropar. The plea of the respondents that such benefits are admissible only to those employees who are engaged in the project at Guru Gobind Singh Thermal Plant, Ropar in connection with construction, generation and maintenance of the plant to deny such benefit to the petitioners, is unacceptable. The running of the plant involves operation at various levels and if any work is related which contributes to the effective running plant, then I am of the opinion that the generation and maintenance of the plant as indicated by the respondents in a wider term, cannot be given a restrictive meaning more particularly so when the respondents have not placed any material on record to show that the employees who are getting that benefit are performing additional or hazardous duties.

Therefore, the prayer of the petitioners is accepted and they are held entitled to the benefits claimed in the petition.

The writ petition is allowed. The petitioners are held entitled to all the benefits at par with other employees of the Plant and the respondents are directed to calculate the arrears on account of the benefits admissible to the petitioners and release the same expeditiously preferably within a period of four months from the date of receipt of a copy of this order.”

7. Thereafter, the said judgment was challenged by filing LPA-90-

2013 titled as “*Punjab State Electricity Board, Patiala Vs. Jugal Kishore and others*”, which was dismissed on 01.09.2014. The relevant para of the said judgment is reproduced as under:-

“The contention of the appellant is that respondents are denied the benefits because they are working on the maintenance of the power line communication whereas the other employees who get this benefit are working in construction as well as in O&M wings. But the fact remains that the respondents are working in the premises of the aforesaid thermal plant. Before the learned Single Judge, the appellant could not explain any reasons for dividing the employees in two classes, one who are working in generation line in the thermal plant and the other who are working on maintenance of power line communication. It has been observed by the learned Single Judge that no material was placed to show that the employees who are getting the said benefits are performing hazardous duties. Even before us no material has been placed to justify the division of the employees in two classes for the purpose of getting certain benefits. In our opinion, the aforesaid allowance has been given to the employees to work in the hazardous circumstances in the thermal plant. Whether they are working in the generation line or they are working in the maintenance of the power line communication makes no difference. The fact remains that both type of employees are contributing to the same cause and they are working in the same environment or hazardous condition. All of them have to face dust etc. whether they are performing their duties of generation side or otherwise. Therefore, in our opinion, the learned Single Judge has rightly granted benefits to the respondents at par with other employees of the thermal plant and the action on the appellant in not giving the said benefits to the respondents was rightly held to be discriminatory. Therefore, we do not find any merit in this appeal.”

8. Thereafter, the said judgment was challenged by the

respondents by filing SLP No.28254 of 2015 titled as “*Punjab State Transmission Corporation Ltd. Formerly known as the Punjab State Electricity Board Vs. Jugal Kishore (D) through LRs and Ors.*” which was also dismissed on 12.10.2017. The order passed by the Hon’ble Apex Court is reproduced herebelow:-

“Heard learned counsel for the parties.

Having regard to the facts of the present case, we do not find any ground to interfere with the impugned order. The special leave petition is, accordingly, dismissed.”

9. After going through the contents of the aforementioned judgments, this Court is in agreement with the submissions made by learned counsel for the petitioners being squarely covered matter by the aforesaid judgments and being similarly situated employees, the petitioners are also entitled to the same relief.

10. In light of the above discussion, this petition is also allowed in the same terms.

11. All pending miscellaneous application(s) also stand disposed of.

July 06, 2023
Nisha Yadav

(DEEPAK MANCHANDA)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>