

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

CWP-22187-2016

Date of decision : 03.02.2023

Kashmir Singh and another

..... Petitioners

versus

Punjab State Power Corporation Ltd. and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.K. Rattan, Advocate
for the petitioners.

Mr. Y.P. Khullar, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

Present petition has been filed by the petitioners seeking writ in the nature of mandamus directing the respondents to grant additional increment on having attained promotion from the post of Junior Meter Readers to LDC.

2. Petitioners who were working as Junior Meter Readers were promoted as LDC vide order dated 14.04.2005 placed on record as Annexure P-4 and their pay was also fixed accordingly. However, the same was later on re-fixed and reduced vide P-5 and P-6. Respondents in their written statement have not denied the fact that the post of LDCs are the promotional post and that the petitioners were ordered to be promoted vide P-4. However, the only reason that has been afforded to deny the claim of the petitioners is that the post on which the petitioners were appointed was out of cadre post and thus, the pay scale attached was not granted. The issue w.r.t. discharge of higher duties and payment of corresponding pay is no more *res integra* and already stands

adjudicated by the Apex Court in ***P. Grover vs. State of Haryana*** **1983(4) SCC 291**, wherein it has been held as under:-

“2. Smt. P. Grover was an, outstanding teacher. In 1968-69, the Government of Haryana honoured her by presenting the State. Award 'for teachers. She attained the age of superannuation on August 20. 1978. About two years before she attained the age of superannuation, she was promoted as acting District Education Officer with effect from July 19, 1976. The Government of Haryana had taken a policy decision as early as in 1965 that the services of teachers, who had received the National or State Awards, should be extended until they attained the age of 60 years, on an year by year basis, if their service record continued to be good otherwise. Pursuant to the policy decision. Smt. Grover's services were extended first by one year and later by another year. During the period of extention of service, she worked as Principal, Government Higher Secondary School. Mahendergarh. She finally retired from service on August 31, 1980.

3. We mentioned that she was promoted as an acting District Education Officer with effect from July 19, 1976. The order of promotion contained a superadded condition that she would draw her own pay scale which apparently meant that she would continue to draw her salary on her pay scale prior to promotion. The initial order extending her services recited that she was an acting District Education Officer, but contained a superadded condition that her pay would not be more than the maximum of the principal's grade. Smt. Grover claims that having been promoted as District Education Officer, she was entitled to the pay of a District-Education Officer and

there was no justification for denying the same to her. A writ petition filed by her was dismissed by the High Court of Punjab and Haryana and she is before us by way of special leave under Article 136 of the Constitution. The counter-affidavit filed on behalf of the Government of Haryana offers no rational explanation for denying the pay of District Education Officer to Smt. P. Grover after she was promoted to act as District Education Officer. All that was said in the counter-affidavit was that there were no Class-I posts available and therefore she was not entitled to be paid the salary of District Education Officer. We, are unable to understand the reason given in the counter-affidavit. She was promoted to the post of District Education Officer a Class-I post, on an acting basis. Our, attention was not invited to any Rule which provides that promotion on an Acting basis would not entitle the officer promoted to the pay of the post. In the absence of any rule justifying such refusal to pay to an officer promoted to a higher post the salary of such higher, post (the validity of such a rule would be doubtful if it existed), we must hold that Smt. Grover is entitled be paid the salary of a District Education Officer from the date she was promoted to the post, that is, July 19, 1976 until she retired from service on August 31, 1980. The appeal is, accordingly allowed with costs.

Appeal allowed.”

3. Annexure P-2 whereby the petitioners were ordered to be promoted reads as under:-

Punjab State Electricity Board

Office Order No. 151

Dated 14.04.2005

According to letter no 2090/CRA-250/04 Dated 06.04.2005 issued vide Director Personal, Zone-C, Patiala.

The following selected candidates selected by the establishment committee under CRA 250/04 are promoted/posted and is for their compliance.

Sr. No.	Name of employee	Present Posting	Proposed posting	Remarks
1.	xxxx	xxx	xxx	xxx
2. Dated 04.03.1960, Roll no.1152, merit no.12	Kashmir Singh s/o Mahl Singh	J.M.R, Dasuya Division	Same Dasuya Division	1. In personal interest. 2. against vacant post. 3.DIR/Personal/ Zone-C, Patiala, letter no. 2090/06.04.2005
3.	Pushpinder Kumar s/o Kartara Ram	ZMR, Mukerian Division	Same Mukerian Division	1. 2. 3. Same as above

4. Once the petitioners were admittedly promoted and were shouldering the higher responsibilities of promotional post, as per the settled proposition of law, the pay scale attached thereto cannot be denied.

5. Resultantly, the present petition is allowed. Annexures P-5 and P-6 are ordered to be quashed. Petitioners are held entitled for all the increments attached to the promotional post in accordance with law. Respondents are directed to pay the arrears within the period of 03 months from the date of receipt of certified copy of the order.

6. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

03.02.2023
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No