

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

COCP-3431-2019

Reserved on : May 05, 2023

Date of Pronouncement : May 08, 2023

Naresh Kumar and others

.....Petitioners

Vs.

Kamal Kishore Yadav and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashok Kumar Nabhewala, Advocate
for the petitioners.

Mr. Sanjiv Ghai, Advocate
Mr. Shubham Chaudhary, Advocate
for respondent No.1

Mr. Madhu Dayal, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

The petitioners allege the non-compliance of the order dated 31.5.2019 passed in CWP-15228-2016.

Brief facts of the case are that the petitioners were working on daily wage basis and filed the aforesaid writ petition for extension of benefits of allowances; like City Compensatory Allowance, Bicycle Allowance, House Rent Allowance, Medical facilities etc. as provided by the Union Territory to other daily wagers working with Medical Officer (Health), Municipal Corporation, Chandigarh. The writ petition was disposed of on 31.5.2019 by issuing the following directions :-

"The pointed stand taken by the petitioner as reflected from Para 11 of the writ petition is that

Municipal Corporation, Chandigarh vide its order dated 31.03.2015 has extended the benefit of certain allowances viz City Compensatory Allowance, Bicycle Allowance, House Rent Allowance, Medical Facilities and certain other benefits (as approved by U.T. Administration) w.e.f. 01.04.2015 to its daily wagers/*Safai Karamcharies* working with Medical Officer, Health, Municipal Corporation, Chandigarh.

2. In the return filed by the Municipal Corporation, Chandigarh, the following stand has been taken:-

“That the contents of para No.11 of the writ petition are admitted and it is necessary to say that the benefit of HRA/CCA/Bicycle Allowances and other allowances are given to the Daily wage Safai Karamchari appointed on compassionate ground (between the year 2001 to 2009) by the Medical Officer, Health, (MOH), M.C., Chandigarh.”

3. Conceded position, therefore, which emerges is that Municipal Corporation, Chandigarh has no objection to the claim of the petitioners. However, learned counsel for U.T. Administration has drawn my attention to the Administrative decision taken by the Special Secretary, Finance of the Chandigarh Administration vide Annexure R-3/1 wherein he has opined that it is for the Municipal Corporation, Chandigarh to take a policy decision to grant the benefits to its daily wage employees who have been appointed after the year 1992.

4. A perusal of R-3/1 viz-a-viz stand taken by the Municipal Corporation, Chandigarh reflects that there

is a pingpong match going on between the U.T. Administration and Municipal Corporation, Chandigarh. Owing to the inter-se redtapism adopted by them, decision has not been taken till date despite the conceded position as stated above.

5. In the premise, writ petition is disposed of with a direction to Municipal Corporation, Chandigarh to take a policy decision with regard to the conferring the benefits keeping in mind the stand taken by them in terms of the para 11 of the para wise reply to its written statement filed before this Court.

6. Let the needful be done within a period of two months from the date of receipt of a certified copy of this order.

7. Disposed of accordingly.”

While disposing of the writ petition, a direction was issued to the Municipal Corporation to take a policy decision with regard to conferring of benefits.

Reply by way of affidavit of the Commissioner, Municipal Corporation, Chandigarh is on record, in which it is stated that vide office order dated 31.3.2015, the financial benefits, as claimed by the petitioners, were provided to daily wage workers, who were appointed before 1992.

It is stated that subsequently in compliance of order dated 11.2.2016 passed in CWP-2708-2016 titled “Naresh Kumar and others Vs. Municipal Corporation and others”, a speaking order was passed on 27.6.2016, wherein the petitioners were held not entitled for allowances as claimed in the present petition as they were appointed after 1992 and

even finance department subsequently advised that such benefits cannot be granted to employees, who were appointed after 1992.

It is stated in pursuance of the judgment dated 3.4.2014 passed by the Hon'ble Supreme Court in Civil Appeal No.6779 of 2009 titled as "U.T., Chandigarh and another Vs. Sampat and others", the Chandigarh Administration introduced a policy of regularisation of daily wage employees, who have completed 10 years regular service till December, 2006 and, according to the said decision, services of daily wagers/work charge employees, who had completed 10 years service till December, 2006 and it was decided that similar benefits will be given to employees, who are engaged prior to 1992 or completed 10 years service till December, 2006. Thereafter, sanction was granted on 18.1.2017 to give pay parity and benefits, including the allowances.

It is further stated that the daily wage workers in the Engineering Wing of the Municipal Corporation appointed after 1.6.1996 are given minimum of pay scale, i.e. basic pay + grade pay and Dearness Allowance and they are not granted any other allowances as they do not fulfill the criteria laid down by the Department of Personnel.

The case was again referred to the Finance Department, who has not accorded approval. It is stated that in compliance of the order dated 31.5.2019 in the present case wherein a direction is given as per Para 11 of the writ petition, it was found that reference of order dated 19.1.2021 is given, which was passed by the Chief Engineer, Municipal Corporation, Chandigarh without approval of the competent authority.

Learned Counsel appearing for the U.T., Chandigarh has placed on record a speaking order dated 6.7.2022 wherein noticing the aforesaid facts, it is held that the committee has rejected the claim of the petitioners for grant of allowances at par with daily *Safai Karamcharis* appointed on compassionate ground under Medical Officer

(Health), Municipal Corporation, Chandigarh as the Municipal Corporation has no authority to make any policy decision. Accordingly, the claim of the petitioners was rejected.

In view of the same, there is no wilfull disobedience is made out.

Dismissed.

May 08, 2023
satish

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO