

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(115)

CWP-6723-2024

Date of decision: - 21.03.2024

Lakhwinder Kaur and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Nand Lal Sammi, Advocate,
for the petitioners.

Mr. TPS Walia, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to pay the amounts towards Dearness Allowance.

2. Learned counsel for the petitioners has submitted that husbands of both the petitioners, who were working as Mali-cum-Chowkidar, were initially appointed on daily wage basis and were subsequently regularized in service and for the period during which they were daily wagers, they were given other benefits, but were not given dearness allowance. It is further submitted that the Hon'ble Supreme Court in Contempt Petition (Civil) No.399/2020 in Special Leave Petition (Civil) No.25389-2011 titled as “***Bahadur Singh and others Vs. Jaspreet Kaur Talwar and others***”, vide judgment dated 16.08.2022 (Annexure

P-1) has clarified the fact that the expression “minimum of the pay”, which is to be paid, would not only mean the basic pay + grade pay, but would also mean the dearness allowance. It is stated that husbands of both the petitioners for the period for which they were daily wagers were entitled to the minimum pay-scales and were also required to be paid dearness allowance as observed by the Hon'ble Supreme Court. It is further submitted that for the said plea, a legal notice dated 29.11.2023 (Annexure P-2) was filed by the petitioners through their counsel, but the respondent authorities have in the reply dated 24.01.2024 submitted that the judgment of the Hon'ble Supreme Court was with respect to specific employees. It is submitted that the case of the petitioners is similar to the case of the said employees before the Hon'ble Supreme Court and the ratio of law, as laid down by the Hon'ble Supreme Court, is applicable to the husbands of the petitioners and thus, the relief is being sought. It is further submitted that at this stage, the petitioners would be satisfied in case the legal notice dated 29.11.2023 (Annexure P-2) is considered by the competent authority of respondent No.1-State on merits after considering the law laid down by the Hon'ble Supreme Court in the above-said judgment, in a time bound manner.

3. Learned counsel appearing for the respondents-State has submitted that competent authority of respondent No.1-State would consider the said legal notice dated 29.11.2023 (Annexure P-2), filed by the petitioners, in accordance with law, and the same would be done within a period of two months from the date of certified copy of this order.

4. Keeping in view the above-said facts and circumstances, the present petition is disposed of, with a direction to competent authority of respondent No.1-State to consider the legal notice dated 29.11.2023 (Annexure P-2) filed by the petitioners within a period of two months from the date of receipt of the certified copy of this order and in case, competent authority of respondent No.1-State is of the view that the plea raised by the petitioners is meritorious, then, the appropriate relief be granted to the petitioners, as expeditiously as possible. In case, competent authority of respondent No.1-State is of the view that the plea raised by the petitioners is meritless, then, a speaking order rejecting the claim be passed within the aforesaid period of two months.

5. It is made clear that this Court has not opined on the merits of the case and competent authority of respondent No.1-State would consider and decide the matter independently, in accordance with law.

March 21, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No