



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(233) CWP-12732-2021
Date of Decision : 23.05.2024

Bhajan Lal ...Petitioner

Versus

State of Haryana and another ...Respondents

(233/2) CWP-13168-2021

Shamsher Singh ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Malik (Ravi), Advocate for the petitioner(s).
Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.
2. In the present petitions, the grievance being raised by the petitioner(s) is that petitioner(s) are not being paid their salary keeping in



view the judgment of the Hon'ble Supreme Court of India in ***State of Punjab Vs. Jagjit Singh and others***, 2016(4) SCT 641 as well as the Instructions, which have been issued by the respondents dated 03.11.2017, a copy of which has been appended as Annexure P-3.

3. Learned counsel for the petitioner(s) submits that the petitioner(s) are entitled for the minimum of the pay scale of the post on which they are working keeping in view the judgment in ***Jagjit Singh (supra)*** as well as the Instructions dated 03.11.2017 (Annexure P-3) and the respondents be directed to grant the said benefit to the petitioner(s).

4. Learned counsel for the respondents submits that as there is no sanctioned post available in the department, the petitioner(s) cannot be granted the benefit of equal pay for equal work as per the judgment in ***Jagjit Singh (supra)***.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It may be noticed that the petitioner(s) are not working on regular basis, hence, the question of regular post will not come. As per the judgment of the Hon'ble Supreme Court of India, any employee working even on the temporary basis is entitled for the minimum of the pay scale of the post regularly held by the regular employees. Once, the posts of Driver exist in the department, the petitioner(s) are entitled for the benefit of the minimum of the pay scale of the post in question. There is no requirement of a regular post to be available to grant the minimum



of the pay scale to the petitioner(s) as per ***Jagjit Singh (supra)***. No such restriction imposed either in the judgment of the Hon'ble Supreme Court of India or in the Instructions dated 03.11.2017 (Annexure P-3) have been brought to the notice of this Court.

7. Keeping in view the above, the respondents are directed to consider the claim of the petitioner(s) for the grant of the minimum of pay scale as admissible on the regular post of the Driver without insisting upon the availability of the regular post. In case, the claim of the petitioner(s) is covered, the said benefits be extended to the petitioner(s), otherwise, due reasons will be given for not accepting the claim other than the one, which has not been accepted by this Court.

8. Let the appropriate order be passed within a period of eight weeks of the receipt of copy of this order.

9. Petitions are disposed of in above terms.

A photocopy of this order be placed on the file of connected cases.

May 23rd, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No