

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

CWP No. 18421 of 2019
Date of Decision : 29.04.2024

Shiv Shankar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kartikey Chaudhary, Advocate for the petitioners.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioners is that keeping in view the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 213 of 2013 titled as ***State of Punjab Vs. Jagjit Singh***, decided on 26.10.2016, the petitioners, who are working under the Outsourcing Policy Part-II, are entitled for the grant of the minimum of the pay scale as admissible under the judgment in ***Jagjit Singh's case (supra)***.

2. Learned senior counsel appearing on behalf of the petitioners argues that keeping in view the judgment in ***Jagjit Singh's case (supra)***, the respondents had issued Instructions on 03.11.2017 under which the

claim of the petitioners is covered that the employees working under the Outsourcing Policy Part-II, are entitled for the benefit of minimum of the pay scale as admissible in ***Jagjit Singh's case (supra)*** w.e.f. 01.11.2017, hence, the respondents are liable to be directed to grant the petitioners the said benefit along with arrears of salary and interest.

3. Learned State counsel has not been able to dispute the fact that petitioners are working since long keeping in view their initial date of appointment. It has also been conceded fact that petitioners are working under the Outsourcing Policy Part-II and since March, 2019, the petitioners are directly working under the Government though with effect from the year 2014 on DC rates. Learned counsel for the respondents further submits that as the petitioners were working under the Contractor, they are not entitled for the benefit of minimum of the pay scale as admissible in ***Jagjit Singh's case (supra)***.

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

5. The Instructions dated 03.11.2017 (Annexure P-7), which has been issued in terms of the judgment in ***Jagjit Singh's case (supra)***, is a conceded fact. As per the said Instructions, an employee is entitled for minimum of the pay scale, who is working under the Outsourcing Policy Part-II and that too w.e.f. 01.11.2017.

6. The only question which arises is whether petitioners are working under the Contractor or under the direct control of the

Government of Haryana. A bare perusal of the order dated 08.03.2019 (Annexure P-6) would show that the petitioners have been appointed by the department and that too with effect from the year 2014 onwards. This fact has gone un-rebutted. Once, the petitioners are working under the Outsourcing Policy Part-II and have been working directly with the Government without there being any Contractor, the Instructions dated 03.11.2017 are fully applicable upon the petitioners for the grant of minimum of the pay scale as admissible in *Jagjit Singh's case (supra)*.

7. The argument of learned counsel for the respondents that the petitioners are working under the Contractor, is factually incorrect fact and is belied by the order dated 08.03.2019 (Annexure P-6).

8. Keeping in view the above, the claim of the petitioners for the grant of minimum of the pay scale as admissible under the Policy dated 03.11.2017 is allowed. The respondents are directed to compute the benefit of minimum of the pay scale from 01.11.2017 onwards and grant the petitioners the said benefit along with arrears from 01.11.2017. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order.

April 29th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No