

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

CWP No.457 of 2016

Date of decision:12.1.2016

Nihal Singh Saini & ors. ... Petitioners

Versus

Punjab State Power Corporation Limited & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pankaj Jain, Advocate,
for the petitioners.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The State of Punjab and the respondent PSPCL stand on the same footing with respect to law laid down by the Supreme Court in **Smt. P. Grover v. State of Haryana and others**, (1983) 4 SCC 29. Those principles will apply to the Corporation in case they pass orders in writing conferring full duties and responsibilities shouldering the higher post and it matters little when the right is curtailed by an arrangement that restricts the pay in the lower pay scale of the post substantively held. This rider of “pay in their own pay scale” has been ruled out of consideration while applying the principles of *quantum meruit* which guarantees equal pay for performing equal duties on the higher post in a temporary arrangement on the exigencies of administration so that the higher post is not left unmanned for want of regular promotion, if the current duty charge is granted on accrued seniority. This salutary fiscal

principle has been well entrenched into the law and traces its approval to the precursor judgment of the Supreme Court delivered in *Smt. P. Grover* including many judgments spawned thereafter in this Court. On facts it may be clarified that petitioner No.1 is an employee of PSPCL but by an administrative order he was deputed to work in the Bhakra Beas Management Board, while the remaining petitioners are employees of PSPCL and had worked in that organization throughout the claim period. The written orders passed by PSPCL granting ad hoc promotion/posting on the higher post, which are the foundation of the claim in the petition, without giving regular promotion have been placed on record as Annexure P-1 (collectively) w.r.t the 6th petitioner. The petitioners rely on the favourable order passed in similar circumstances in CWP 26506 of 2014 (Des Raj & ors. v. State of Punjab & ors.) decided on December 23, 2014, a copy of which has been placed on record as Annexure P-2 on the writ record. Since the issue raised in this petition is no longer *res integra* for arrears of difference of pay, there would be no need to call for a reply from the Corporation in the face of Annexure P-1 (colly) and it would suffice that directions are issued to the respondents to comply with the directions as stand issued in the aforesaid writ petition following the law laid down in *Smt. P. Grover's* case to ensure that whenever such arrangements are resorted by the department, employees are not compelled to approach this Court for relief only to waste time on a matter which stands long settled since 1983 by the Supreme Court. Any further litigation on the same principle may invite heavy costs. But for the moment, the present petition is allowed with costs of Rs.25,000/- as

similar to costs imposed in the aforesaid writ petition, presently to be paid to the petitioners since they were forced to knock at the doors of this court.

**(RAJIV NARAIN RAINA)
JUDGE**

12.1.2016
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