

(2010) 08 P&H CK 0230
In the Punjab And Haryana At Chandigarh

Balbir Kaur and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 08 P&H CK 0230

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—This petition under Articles 226/227 of the Constitution of India has been filed praying for issuance of a writ in the nature of mandamus directing the respondents to grant Dearness Relief/Allowance on family pension to the petitioners.

2. It transpires that family members of the petitioners have been given appointment on compassionate grounds and, therefore, under the instructions issued by the respondent-State, Dearness Allowance on family pension is not being given.

3. It has been brought out that the issue has been considered by a Division Bench of this Court while dealing with CWP 891 of 2003 Mukhtiar Singh v. State of Punjab and Ors. decided on 20.1.2004, wherein the following has been held:

The controversy in hand raises two issues; namely, 1) whether the petitioners were entitled to dearness allowance on family pension, and 2) whether recovery could be effected in a situation wherein the recipients had not made any misrepresentation to the authorities.

In so far as the first issue is concerned, the controversy in hand stands adjudicated upon the Apex Court in H.S.E.B. and Ors. Versus Azad Kaur (Civil Appeal No. 5835 of 1998, decided on 18.8.1999). In view of the determination of

the Apex Court on the issue under reference, we are satisfied that the claim of the petitioners for dearness allowance on family pension is misconceived. The first contention of the petitioner is, therefore, not accepted.

4. Learned Counsel for the petitioners contends that, indeed, the issue raised by the petitioners in this petition would be covered by the judgment rendered in Mukhtiar Singh's case (*supra*) and, therefore, the petitioners would have no right to claim Dearness Allowance on family pension, in view of the fact that family members have been given appointment on compassionate grounds.

5. In view of what has been held in the judgment rendered in CWP 891 of 2003 *Mukhtiar Singh v. State of Punjab and Ors.* decided on 20.1.2004, the petition is dismissed.