

(2010) 08 P&H CK 0222
In the Punjab And Haryana At Chandigarh

Dalbir Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 11-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Civil Services Rules — Rule 5.35

Citation : (2010) 08 P&H CK 0222

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Judgement

Ajai Lamba, J.—This petition has been filed under Articles 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing the respondents to continue to pay to the petitioners 5% of their basic pay in addition to the normal house rent allowance in view of the fact that the petitioners have been posted within 16 kilometers/10 miles belt of international border with Pakistan.

2. It has been contended that in the year 1965, it was decided by the erstwhile State of Punjab, that all employees who are posted in cities shall be eligible for house rent allowance, in case they are not provided with government accommodation. It has further been contended that in accordance with Rule 5.35 of the Punjab Civil Services Rules Vol. I Part-I, State of Punjab issued a letter taking a decision that in order to provide incentive to State Government employees posted in border area, rent free accommodation would be given in 10 miles/16 kilometers belt of international border in District Ferozepur, Amritsar and Hoshiarpur irrespective of the population of such city, town or village. The instructions issued to that effect on 31.03.1970 have been annexed as Annexure P-1. The respondents took cognizance of the special problems relating to border area and it was decided that all the employees who are not provided rent free accommodation and are posted within 10 miles of the international border, shall be granted house rent allowance which would be 12% of their pay without production of actual rent receipts. Instructions in that regard were issued on

15.05.1973 (Annexure P-2). On 23.12.1988, the respondents-State issued letter to all the Head of the Departments stating that in pursuance of recommendation of IIIrd Pay Commission, the government employees would be entitled to rent free accommodation. Further benefits were given under Annexure P-4 dated 23.12.1988. In such circumstances, all the government employees who are entitled for rent free accommodation and in case rent free accommodation is not provided/allotted, the employees would be entitled to 5% of their basic pay in addition to normal house rent allowance. The benefit was not extended to some of the employees even though their cases were covered under the instructions issued by the respondents whereupon they approached this Court.

3. Learned Counsel contends that the case of the petitioner is also covered by judgment rendered by this Court Annexure P-10. Learned Counsel contends that since the benefit was not given to the petitioners, the petitioners made a representation Annexure P-11, however, no decision thereupon has been taken till date although the legal notice was served in March 2010.

4. I am of the opinion that in view of the instructions issued by the respondents from time to time in the context of the claim of the petitioners that their case is covered by the said instructions, the petitioners are entitled to a decision on a legal notice served on the respondents in the context of the issue raised above.

5. In view of the above, this petition is disposed of with directions to the respondents to take a decision on legal notice Annexure P-11 within a period of 3 months of receipt of certified copy of the order. The decision taken by the respondents needs to be by way of a speaking and reasoned order, which would be conveyed to the petitioners.