

(2014) 12 P&H CK 0133
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 26506 of 2014

Des Raj and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 23-12-2014

Acts Referred:

Citation : (2015) 1 SCT 656

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Vivek Bhagla, Advocates for the Appellant; Anshul Gupta, A.A.G, Advocates for the Respondent

Judgement

Rajiv Narain Raina, J.—Notice of motion. Mr. Anshul Gupta, AAG, Punjab accepts notice on behalf of the respondents and waives service on them.

2. Having regard to the order passed by this Court on 3.11.2012 in CWP No. 21901 of 2012 and the recent order dated 4.7.2014 passed in CWP No. 13349 of 2014, it would suffice to say that the present matter is squarely covered by those decisions and nothing further is required or can be said regarding the rights of the petitioners for arrears of difference of pay for discharging duties of the higher post temporarily under office orders. The principle on which the judgments rest are well recognized and based on the doctrine of quantum merit which guarantees equal pay for performing the duties of the higher post in a temporary arrangement depending on the exigencies of administration so that the higher post is not left unmanned. This principle has been entrenched into the law by the Supreme Court in Smt. P. Grover Vs. State of Haryana and Another, which precedent has since ruled the roost.

3. The learned counsel for the petitioners has supplied a copy of the petition to the learned counsel for the respondents in court today to which a written statement is not found necessary by this Court in view of the order proposed to be passed and for obvious reasons, which are; that the State can have no

legitimate defence against the settled principle. If the State and its functionaries cannot hand over such benefits on their own, for which the petitioners are entitled to, and to discharge their fundamental administrative duties while holding office and still expect the Court every time to pass such orders in routine to grant the deserved relief, then it is high time for the respondents to activate their duties in treating its employees similarly situated to those who have court decrees passed already in their favour and keep claims pending without any rhyme or reason and are being deprived of their legitimate rights without redress compelling them to institute litigation before the Court only because an officer concerned lacks the will to perform his duty enjoined by law while remaining blissfully unconcerned and apathetic with the plight of others. Too much time has been taken by the respondent department to settle the claims for this court to ignore inordinate delay which has caused considerable financial loss to the petitioners by the inaction on the part of the respondents. Therefore, this petition is allowed with costs of Rs. 25,000/- against the State and in favour of the petitioners to be shared equally between them. The inaction is condemned. A writ is issued to the respondents to pass final order within 21 days of receipt of a copy of this order in the light of the aforesaid settled law.

4. The State would pay the costs imposed against it to the petitioners in the first instance and recover it from the erring officers who are found responsible in not taking decisions within reasonable time at their level and till presently, only awaiting orders from Court in each individual case. This approach and bent of mind is strongly deprecated. The State is thus directed to consider formulating a policy underlying the principles laid down in Smt. P. Grover (*supra*) based on the rule of quantum meruit on a blue print and to do so within six months, in case such instructions are not already in place and effective operation. The proposed executive instructions will serve well and remain guidance of the departments of Government and empower officers in removing the barriers of decision-making at office level in matters involving financial benefits and money lest they are afraid of sanctioning subject claims. The Court cannot be treated as a post office stamping orders only to call for performance of administrative duty. If instructions on the subject are issued in this regard this would not force litigants to approach the Court every time for settling their grievances when such a policy is in place. Or the Government may consider curbing the practice of CDC itself by recourse to better systems and forms of running Government and of governance where CDC is left to its classic role of tiding over immediate administrative exigencies so that the working of the Government is not hampered. But CDC is after all only a stop gap arrangement to tide over immediate crisis in administration so that its functioning is not paralysed and thus it cannot be allowed to be abused as a substitute for regular promotions conferring incumbents the ad hoc but absolute authority in holding and enjoying de facto the virtual powers of promotional posts for long periods of time without according de facto and de jure promotions according to cadre seniority and in accordance with rules. This would curtail misuse of powers. If Government still

prefers this system then it should not shirk from its duty to pay the difference of salary for full work done in the higher pay scale of the promotion post for which the policy is envisioned in this order.

5. A copy of this order be sent to the Chief Secretary, Punjab. The petition stands disposed of with the above directions.