

(2009) 04 AHC CK 0460
In the Allahabad High Court

Maina Devi (Smt.)

APPELLANT

Vs

U.P.State Bridge Corporation Ltd.& ors.

RESPONDENT

Date of Decision : 10-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0460

Hon'ble Judges : Sunil Ambwani, J

Final Decision : Disposed Of

Judgement

Sunil Ambwani, J.

Heard learned counsel for the petitioners. Shri M.K. Kushwaha has accepted notice on behalf of all respondents.

The petitioners are serving as work charge employees in the U.P. State Bridge Corporation Ltd. in the pay scales and dearness allowance on which the respondents have put a ceiling.

All the petitioners had earlier filed Writ Petitions challenging the ceiling and for payment of salary in the regular pay scale with the dearness allowance as admissible in the State Government on the principles of equal pay for equal work. The writ petitions were disposed of with directions that the respondents shall decide petitioners' representations. It is contended that the representations in pursuance of the orders passed by this Court are still pending and have not been decided.

Shri M.K. Kushwaha, appearing for the Corporation, does not deny that the petitioners were engaged by the Corporation and are continuously working on the fixed pay and have not been paid more than Rs. 4200/ as the Corporation has placed a ceiling on the wages to be drawn by the petitioners. They have not been made entitled to the dearness allowance at the rates on which the dearness allowance is fixed linked with the consumer price index.

The issue raised in these writ petitions is covered by the judgment in Prabhu

Narain Sharma Vs. State of U.P. & Ors., 2006 LCD 1053. This Court found that the ceiling by the orders of the Corporation on payment of dearness allowance to the worked charge employee is highly arbitrary, unjust and improper and is also discriminatory in nature. It also affects right to live with dignity guaranteed under Article 21 of the Constitution of India. Once the Government had taken a decision on payment of dearness allowance, the provisions contained in the Financial Hand Book were applicable and that there was no justification on the part of the State Government to put any ceiling on the payment of dearness allowance.

A Special Appeal is pending against the judgment but there is no stay order either staying the payment of dearness allowance or the operation of the judgment.

I am in full agreement with the judgment of the Court in Prabhu Narain Sharma's case and the reasons given for declaring that the ceiling put by the State Government vide letter of the Principal Secretary, Finance dated 1.1.2000 making paras 667, 668 and 669 of PartVI of the Financial Hand Book inapplicable to the work charge employees, is violative of Articles 14 and 21 of the Constitution of India.

Since the issues raised in the writ petition have already been settled by this Court and that a large number of similarly situated employees have been given same benefits, there appears to be no good reason to either deny same relief to be made applicable to the petitioners.

The writ petitions are accordingly disposed of with the directions that the petitioners shall be made entitled to the same benefits in terms of the judgment dated 6.5.2005 in Prabhu Narain Sharma Vs. State of U.P., 2006 LCD 1053. The petitioners will get their wages without any ceiling on the dearness allowance with effect from the next month.