

(2000) 10 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8057 of 1999

Pal Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 05-10-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 10 P&H CK 0027

Hon'ble Judges : J.S. Narang, J

Bench : Single Bench

Advocate : Mr. R.K. Arora, for the Appellant; Mr. B.S. Sewak, AAG, for the Respondent

Judgement

J.S. Narang, J.—This judgment would dispose of three writ petitions i.e. C.W.P. Nos. 8057, 7935 and 15500 of 1999 as a common question is involved in all these petitions, relating to the payment of house rent allowance which was provided to the other similarly situated employees i.e. the teachers.

2. The facts are being taken from civil writ petition 8057 of 1999.

The petitioners are working as teachers in the Punjab Education Department and are posted in the Schools which fall within the radius of 10 miles/16 kms. belt of the International Border with Pakistan, in District Ferozepur. As an incentive, the Punjab Government decided on 31.1.1978 that the State Government employees, who were posted in the areas falling within 10 miles/16 kms. belt of the International Border, in Districts Gurdaspur, Amritsar and Ferozepur, etc. be granted rent free accommodation. However, it was not possible to provide rent free accommodation to all similarly situated teachers. As such, the said employees had been granted house rent allowance @ 12-1/2% of their pay i.e. equal to what was being paid to the employees posted in "A" class cities, without production of any house rent receipts.

3. It was on the recommendation of the Third Pay Commission, the State of

Punjab issued instructions on 30.8.1988 whereby the cities/towns had been re-classified for the purpose of grant of house rent allowance to the employees and the rates of house rent allowance had been provided, varying from city to city and town to town. The said instructions protected the payment of house rent allowance being drawn by the employees at higher rates than those specified in the instructions till their rates of house rent allowance gets adjusted in the revised rates. The relevant portion reads as under:

"A proviso stated that the HRA being drawn by the employees at rate higher than those being drawn by the employees at rates higher than those specified in the Circular shall be protected till their rate of HRA gets adjusted in these revised rates."

The cases of the petitioners were accordingly considered and it transpired from the instructions of the Punjab Government that they were not entitled to the said house rent allowance. It was in consequence of this that the recoveries were initiated against them. It maybe mentioned that prior thereto, the petitioners had been held entitled to the said house rent allowance but no protection was provided under the earlier instructions. This Act of the Government had been challenged earlier and the final decision was rendered by the Apex Court in SLP (Civil) 9149 of 1992 decided on 21.4.1995, copy Annexure P.2.

Thus, in view of the interpretation of the provisions contained in the Government instructions issued in the year 1988, and in view of the dicta laid down in the SLP (supra) I hold that the petitioners are entitled to the said protection and the Government had in fact wrongly initiated and made the recoveries from them. The petition is, therefore, allowed. The petitioners shall be entitled to the protection granted by virtue of the instructions of Punjab Government as contained in Annexure P-1. The respondents shall not make recoveries of house rent allowance from the petitioners and if the recovery of any amount has been made on account of house rent allowance falling within the mischief of the instructions (Annexure P1), the respondents are directed to refund the same within three months.

4. Petition allowed.