

(2018) 04 UK CK 0061

In the Uttarakhand High Court

Case No : Special Appeal No. 489, 490, 491, 492 of 2017

STATE OF UTTARAKHAND AND OTHERS

APPELLANT

Vs

SHIV PRASAD SHARMA AND ANOTHER

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Constitution of India, — Article 12, 14, 16, 39(d), 42, 43, 141
Uttar Pradesh Home Guard Act, 1963 — Section 2(e), 2(h), 2(j) 4, 7, 8, 9, 10, 11, 11(4), 11(5), 14(1), 15

Citation : (2018) 04 UK CK 0061

Hon'ble Judges : K.M. JOSEPH, C.J, SHARAD KUMAR SHARMA, J

Bench : Division Bench

Advocate : M.C. Pande, Narain Dutt, M.C. Pant, Rajat Mittal

Final Decision : Partly Allowed

Judgement

K.M. JOSEPH, C.J.Â Â Â Â Â

1. Since these appeals raise common question, we are disposing of the same by the following common judgment.Â The appellants are the

respondents in the writ petitions.Â We take Writ Petition (S/S) No. 2321 of 2016 as the leading case.Â The reliefs, which are sought in the said writ

petition, are as follows:

â??i. Issue a writ, order or direction in the nature of certiorari quashing Govt. Order dated 01.06.2016 passed by Additional Secretary, Dehradun vide

G.O. No. 362/XX(5)/16-11 (Home Guard)/2002 in view of the judgment and order dated 11.03.2016 rendered by Honâ??ble Supreme Court in the

case of Grah Rakshak, Home Guard Welfare Association vs. State of Himachal Pradesh and othersâ?, Civil Appeal No. 2759 of 2015 arising out of

SLP (C) No. 2858 of 2009.

ii. Issue a writ, order or direction in the nature of mandamus the state respondents to give the benefits to the petitioners of pay and other benefits equal in amount to the pay and other benefits which are admissible to police personnel in light of the judgment and order dated 11.03.2016 rendered by

Honâ??ble Supreme Court in the case of Grah Rakshak, Home Guard Welfare Association vs. State of Himachal Pradesh and othersâ?, Civil

Appeal No. 2759 of 2015 arising out of SLP (C) No. 2858 of 2009.â??Â Â

2.Â Briefly put, the case of the writ petitioners is as follows:

Â Writ Petitioner no. 1 is presently posted as Platoon Sergeant at District Magistrate Office, Dehradun.Â Writ Petitioner no. 2 is posted as Home

Guard at the Nagar Nigam Force, Dehradun.Â The Uttar Pradesh Home Guards Adhiniyam, 1963 (hereinafter referred to as the Â â??Actâ??)

came into force.Â The said Act was adopted after the State of Uttarakhand came into force and it is applicable in the State of Uttarakhand also.

Paragraphs no. 6 and 7 of the writ petition read as follows:

â??6. That the petitioners have been discharges their duties as a Home Guards and also assigned to work like a police personnel and the similar duty

at par to the police personnel time to time. For example in the State of Uttarakhand the Home Guards are required to discharge their duties to maintain traffic control, to maintain law and order situation, to work to assists the police personnel into local police stations for their day to day affairs, to

discharge their duties in the court premises including High Court, in the election duty, Kubh Mela and other festival duties, now a days to maintain law

and order situation in the banks where huge crowed is present to exchange their old currency. Similarly in the annual examination of High School and

Intermediate Board and University examination as well as various competitive examinations.Â

7. That in nutshell it is useful to say that the nature of duties of the petitioners can be equated with the regular police personnel and can be termed

auxiliary to the police force.â??Â Â

The writ petitioners are being paid only a meager amount as honorarium to the extent of Rs. 400/- per day, although they are required to work against

the duties mentioned above more than eight hours a day.Â Reliance is placed on Annexure No. 2 judgment of the Honâ??ble Apex Court in the

case of Grah Rakshak, Home Guards Welfare Association Vs. State of Himachal

Pradesh and others reported in (2015) 6 SCC 247.Â Reliance is also placed on Annexure No. 3 judgment.Â Reference is also made to Article 141 of the Constitution of India. It is contended that the writ petitioners have been discharging their duties as Home Guards and are also assigned to work like a police personnel and the similar duty at par with the police personnel from time to time.Â They are to maintain traffic, control law and order, assist police officers in the local police stations in their day to day work, discharge duties in the court premises including the High Court.Â Accordingly, the writ petitioners are before us.Â Â

3. In the counter affidavit filed by the first respondent in the writ petition, it is, inter alia, stated as follows:

Â â??The constable of the police department cannot be equated with the voluntary Home Guards as their work and duty and responsibilities are different. It is further submitted that the work area, duty, source of recruitment process, educational qualification etc. are all different. It is further submitted that the State of Uttarakhand is a newly created State and the sources of revenue are also limited.

The Home Guards are enrolled as volunteer and their duty is of assisting the police according to the Uttar Pradesh Home Guard Act, 1963 adopted by the State of Uttarakhand vide notification no. 27 dated 02.11.2002. Section 4 of the aforesaid act provides the function of Home Guards which is as follows:-

4. Functions- The Home Guards will have the following functions:-

- (a) they will serve as auxiliary to the police, and, when required, help in maintaining public order and internal security;
- (b) they will help the community in air raids, fires, floods, epidemics and other emergencies;
- (c) they will function as an emergency force for such special tasks as may be prescribed;
- (d) they will provide functional units for essential services; and
- (e) they will perform such other duties relating to any measure of public welfare as may be prescribed.

The Home Guard volunteers are paid the allowances on the basis of the per day duty done by the concerned Home Guards. The sources of recruitment and the process of recruitment of the police constable and the Home

Guards are entirely different. Only on the basis of the duty done by the Home Guards, the Home Guards cannot be granted the same emolument/salary like the police personnel.â??

Â It is stated that all the volunteers are paid the allowances on the basis of the per day duty done by the concerned Home Guards.Â The Government has increased the wages from Rs. 350/- to 400/- per day by Government Order dated 01.06.2016.Â Paragraph no. 10 of the counter affidavit may also be noticed. The same reads as follows:

â??10. That the contents of para no. 8 of the writ petition are wrong and denied. In reply it is submitted that according to section 11 (4) of the aforesaid act the Home Guard called out for duty, may be paid such allowances as may be prescribed and the government vide its order dated 01.06.2016 has increased the remuneration Rs. 350 to Rs. 400 per day. The copy of relevant portion of Section 11 (4) of aforesaid Act and G.O. dated 01.06.2016 are being filed herewith and marked as Annexure No. CA-3 & 4 respectively to this affidavit.â??

4. The learned Single Judge allowed the writ petition.Â The learned Single Judge drew support from Annexure No. 2 judgment.Â It was held as follows:Â

Â â??12. However, the fact of the matter is that despite the law laid down by Their Lordships of Hon. Apex Court, cited hereinabove, read in conjunction with the communication dated 16.9.2016, petitioners have not been granted the relief in terms of the aforesaid judgment. Ours is a welfare State. It cannot remain oblivious to the hardships faced by the persons recruited in the voluntary organization. The Home Guards also perform the arduous and hazardous duties, akin to police personnel, as per Section 9 of the Act.Â

13. The enhancement of daily allowance, from Rs.350/- to Rs.400/- per day, is very paltry. It would be difficult for the members of Home Guard Association even to make their both ends meal. They are also supposed to look after their families. The action of the respondents, in denying the Home Guards the benefit of the law laid down by Their Lordships in the abovementioned judgment, is illegal, arbitrary, discriminatory and thus, violative of Articles 14 and 16 of the Constitution of India. Learned Single Judge of Allahabad High Court also, by following the judgment rendered by

their Lordships of Hon. Apex Court in the case of Grah Rakshak Home Guard Welfare Association (Supra), has also issued necessary directions to the State of Uttar Pradesh.Â

14. Accordingly, the present petitions are allowed. The respondent-State of Uttarakhand, in terms of the judgment of their Lordships of Apex Court in the case of Grah Rakshak Home Guard Welfare Association (Supra), is directed to grant the petitioners, and other Members of the Home Guards, deployed in the State, the duty allowance at such rates, total of which 30 days (a month) comes to minimum of the pay to which the police personnel of the State are entitled, within a period of three months from the date a certified copy of this order is placed before the competent authority.Â??Â Â

5. We heard Mr. M.C. Pande, learned Additional Advocate General assisted by Mr. Narain Dutt, learned Brief Holder on behalf of the State of Uttarakhand/appellants and Mr. M.C. Pant and Mr. Rajat Mittal, learned counsel on behalf of the respondents/writ petitioners.Â

6. Mr. M.C. Pande, Additional Advocate General would submit that the Home Guards operate under the Act.Â They are volunteers for service.Â

There cannot be a comparison between the Home Guards and the Police personnel.Â The terms of recruitment vary.Â The qualification for being

appointed as a Home Guard in the Hill District is that a person should have passed 5th standard.Â In the plain area, a person is considered qualified if

he/she has passed the 8th standard, whereas to become a police constable, a person must have passed 12th standard.Â He would further submit that

actually pursuant to the considered judgment of the Honâ??ble Apex Court, the allowances have been enhanced from Rs. 350/- to Rs. 400/- per day.

Therefore, there is no case made out.Â Learned Additional Advocate General would also draw support from the judgment of the Honâ??ble Apex

Court in the case of State of Punjab and others Vs. Jagjit Singh and others reported in (2017) 1 SCC 148.Â Considerable support was sought to be

drawn from paragraph no. 42 of the said judgment, which sets out the principles to govern a case where a claim is made for equal pay.Â Apparently,

support was sought to be drawn in the context of observations made in paragraph no. 42.8 besides other paragraphs.Â

7. Per contra, Mr. M.C. Pant and Mr. Rajat Mittal, learned counsel would support the order of the learned Single Judge.Â A compendium of case

law in this regard is made available before us consisting of judgments rendered by High Courts.Â In particular, our attention is drawn to the judgment

of the Allahabad High Court, which apparently is also governed by the Act.Â We will make reference to it later on.Â It is pointed out that by

communication dated 16.09.2016, the Government of India, as advised, has directed the Chief Secretaries of all the States as follows:

â??Dated the 16th September, 2016

To

Â The Chief Secretary,

All States/UTs.

Subject: Judgment of Supreme Court of India â?" Contempt Petition (C) No. 133 of 2016 in Civil Appeal No. 2768 of 2015

Sir,

Â I am directed to refer to the judgment of the Honâ??ble Supreme Court of India dated May.04.2016 in the above mentioned case pertaining to

Home Guards and to request you to issue necessary directions to the concerned authorities for its compliance. Copy of the Judgment is enclosed for ready reference.Â

2. This issues with the approval of DG, FS, CG & HG.

Yours faithfully

Encl: as above

(D.K. Shami)

Fire Adviser/HODâ??

8. In regard to a query of this Court also, as to how the direction given by the Honâ??ble Apex Court will be worked out so that the minimum of the

pay is paid on the basis of the work done, attention is drawn to the order dated 04.05.2016 passed by the Honâ??ble Apex Court.Â The relevant

portion reads as under:

Â â??However, we make it clear that the pay that is given to the petitioners will not be on a monthly basis, but will be calculated with reference to

each day of work put in by the petitioners.â??

9. In the judgment of the Allahabad High Court, we notice, in fact, that the Division Bench was considering the appeal filed by the State against a

direction of the learned Single Judge.Â Therein, we notice that the judgment reveals that the following direction was issued:

â??(B) The State Government is directed to consider the claim of the petitioners and other Home Guards for grant of duty allowance at such rates,

total of which, thirty days (a month) comes to minimum of the pay to which a police constable in the State Government is entitled to in terms of the

directions issued by Honâ??ble Supreme Court in the case of Grah Rakshak, Home Guards Welfare Association (supra). The State Government

shall pass appropriate orders expeditiously, say within a period of three months from the date of production of certified copy of this order.â??Â

10. There are other judgments, which are rendered by the Rajasthan High Court, Punjab and Harayana High Court, Madhya Pradesh High Court and

also the Delhi High Court, which have given relief.Â

Reliance is also sought to be drawn from the judgment of the Division Bench of this Court also.Â We must, at once, notice the facts leading to the

judgment and also the relief, which was actually granted.Â The facts were as follows:

The appellantâ??s mother therein was an employee of the Home Guard.Â There was a weekly day for cleaning the firearms at the Police Station,

Lalkuan, District Nainital.Â She died as a result of an accident, which took place.Â Being dissatisfied with the sum being offered as ex-gratia relief

from the Chief Ministerâ??s Discretionary Fund, the writ petition was filed.Â The learned Single Judge disposed of the writ petition by holding that

the employment of the Home Guard is not a regular employment and not protected by the Service Rules.Â This judgment of the learned Single Judge

came before the Division Bench by way of the appeal and it was by disposing of the same that the Division Bench proceeded to give the following

directions:

â??26.Â Accordingly, the special appeal is allowed and impugned judgment and order dated 19.12.2012 passed by learned Single Judge of this Court

in Writ Petition No.623 of 2007(S/S) is hereby set aside. The following directions are issued :-Â

1. Respondents are directed to pay compensation of Rs.25 lakhs to the appellant within a period of eight weeks from today.Â

2. Respondents are also directed to consider the case of the appellant for

compassionate appointment either in police department or home guard, within a period of six months from today. Â

3. Respondents are also directed to consider the payment of living wages to the members of Home guard organization by enhancing their honorarium

from Rs.400/- per day to Rs.750/- per day, within a period of twelve weeks from today.Â

4. State Government is also directed to pay interim compensation of Rs.5.00 lakhs in every case of death of Dalit due to atrocities and Rs. 2.50 lakhs

in case, he receives grievous injuries.Â

5. The SDM concerned shall conduct time bound enquiry in the matter, where the atrocities on Dalit take place and shall also fix the responsibility on

the person who is responsible for the atrocities committed upon him.Â??Â

11. The actual issue as to whether the Home Guards are entitled to a minimum of the pay of the Police personnel concerned as such did not arise for

adjudication in the said case, but by way of general directions, the Division Bench, undoubtedly, directed to consider the payment of living wages to the

members of the Home Guard Organization by enhancing their honorarium from Rs. 400/- per day to Rs. 750/- per day.

12. Therefore, this cannot be treated as a judgment of a Coordinate Bench, which binds us and it is a direction to consider the claim of giving the

minimum wages of Rs. 750/- .Â Mr. M.C. Pant, learned counsel for the writ petitioners sought to draw considerable support from paragraph no. 57

and 58 of the judgment of the Honâ??ble Apex Court in the case of State of Punjab and others Vs. Jagjit Singh and others reported in (2017) 1 SCC

148.Â In the nature of the order we propose to pass, we need not dwell upon it as such.Â

13. We may only notice certain salient features present in the Act.Â The Act was enacted by the legislature of the undivided State of Uttar Pradesh

in the year 1963.Â Home Guard is defined in Section 2(e) as a person who is enrolled as such, and includes an officer appointed under the Act.Â

Section 4 of the Act sets out the functions of a Home Guard, as already noticed.Â

14. Section 7 of the Act provides as follows:

Â â??7. Enrolment etc. - (1) Subject to such conditions as may be prescribed, any person desiring to be enrolled as home guards shall make an

application in the prescribed form. If such applicant is in private service he shall make such application through his employer, or if in service under the

State through the authority competent to grant him permission to join the force.

(2) A home guard shall be formally enrolled and on enrolment make a declaration in the form set out in the First Schedule and receive a certificate of

appointment in the form set out in the Second Schedule under the seal and signature of such officer as may be prescribed, by virtue of which he shall

be vested with the powers and privileges and be subject to the duties of a home guard.

(3) Officers and other members of the Home Guards shall wear such uniforms as may be prescribed.â??

15. Section 8 of the Act provides for the method of calling out of Home Guards.Â It is to be done by the District Magistrate or the District

Commandant or the Commandant General or such officer. Section 9 of the Act sets out the powers, privileges and protection of the Home Guards.Â

The same reads as follows:

â??9. Powers, privileges and protection of Home Guards. - (1) Subject to the provisions of this Act and the rules made thereunder, a home guard

when called out under Section 8 to serve as auxiliary to the police or to help in maintaining public order or internal security shall have the same

powers, privileges and protection as a member of the police force appointed under any enactment for the time being in force, and shall subject to such

adaptations and modifications as may be made therein by the State Government by notification in the Gazette, be subject to the provisions of the Police

Act, 1861 and the rules or regulations made thereunder in the same manner and to the same extent as he would, if such home guard held a

corresponding rank in the police force to the one he holds for the time being in the Home Guards.

Â (2) No prosecution shall be instituted against a home guard in respect of anything done or purporting to be done by him in the discharge of his duty

as a home guard, except with the previous sanction of the District Magistrate having jurisdiction over the area in which the home guard was enrolled

or in which the act was committed.â??Â

16. Section 10 of the Act declares that Home Guards will be public servants but not civil servants.Â By virtue of the explanation to the said provision,

it is declared that Home Guard shall not be deemed to be a holder of a civil post by virtue of his enrolment.Â Section 11 of the Act deals with the

liability of service.Â Section 11(4) of the Act contemplates the Rules being made regarding the allowances, which may be paid to the Home Guards,

who are called for duty.Â Section 11(5) of the Act, we notice, provides that the Home Guards will ordinarily be called out to serve in the areas of

their enrolment and only for part time duty.Â Section 14(1) of the Act reads as follows:

â??14. Obligation of employer to permit Home Guards to join duty. - (1) Except as may be prescribed, every employer shall permit a home guard who

is for the time being employed by or under him to join his duty as such and, notwithstanding anything in any law or agreement between him and such

Home Guard in force, the period of his duty shall, subject to such conditions and restrictions as may be prescribed, be deemed to be the period spent in

such employment.â??

17. Section 15 of the Act provides power to make Rules and Regulations. We may notice, on a perusal, in fact, of Sections 7 and 14 that an applicant

for becoming a Home Guard can even be a person, who is in private service.Â Private Service, in turn, has been defined under Section 2(h) of the

Act as any service other than service under the State.Â Service under the State has been defined in Section 2(j) of the Act as service under the

â??Stateâ?? as defined in Article 12 of the Constitution of India, and includes service under any statutory corporation.Â Employer, in the context of

Sections 7 and 14, has also been defined.Â Thus, a person in private employment can become a Home Guard by way of enrolment under Section

7.Â Section 11(5) appears to contemplate that Home Guards are ordinarily to be called out to serve in the areas of their enrolment and only for part

time duty.Â

18. We have made a survey of these provisions so that we may deal with the case based on the judgment of the Honâ??ble Apex court in the case

of Grah Rakshak, Home Guards Welfare Association Vs. State of Himachal Pradesh and others reported in (2015) 6 SCC 247.Â There can be no

doubt that under the Constitution of India, Article 39(d) obliges a State to bear in mind the principle of equal pay for equal work for both men and

women.Â It is out of this Article 39(d) read with Article 14 that a huge body of

case law has evolved relating to payment of equal pay for equal

work. We may equally notice Article 42 of the Constitution of India, which provides that the State shall make provisions for securing just and

humane conditions of work and maternity relief. This is immediately followed up by Article 43, which contemplates living wage etc. for workers.

It provides as follows:

43. Living wage, etc. for workers. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other

way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment

of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co operative

basis in rural areas.

19. Therefore, making available a living wage is the ultimate goal of the State. The State is also expected to act as a model employer. At the same

time, we cannot also be totally oblivious to the fact that States are very often faced with acute shortage of funds. Necessarily, a balanced view

must be taken. But once a right is established, the paucity of funds cannot be a ground to deny what is legitimately and legally due to a person.

20. Having made the above observations, we may consider the effect of the judgment of the Hon'ble Apex court in the case of Grah Rakshak,

Home Guards Welfare Association Vs. State of Himachal Pradesh and others reported in (2015) 6 SCC 247. Undoubtedly, the Hon'ble Apex

Court was dealing with a claim essentially for regularization of service and grant of regular appointment. The Court proceeded to scan certain

provisions under the Bombay Home Guards Act, 1947, the Himachal Pradesh Home Guards Act, 1968, the Punjab Home Guards Rules, 1963 and the

Delhi Home Guards Rules, 1959 and proceeded to make the following observations :

33. In the cases before us though some of the Home Guards (Grah Rakshak) produced their appointment letters to show that they are serving as

Platoon Havaldar for 10 to 28 years, we find that they have been enrolled and there is no appointment on regular basis. They have never been paid

salary/wages and there is no provision to make any payment of salary/wages other than the duty allowance and other allowances.

34. In the Form filled up by the Home Guards volunteers of each State, the Home Guards have specifically mentioned that they undertake to serve as a member of the Home Guards at any time and place in India if they are called out for training or duty. This is evident from Form I of the Himachal

Pradesh Home Guards Act, 1968 which shows that they are entitled for temporary allowance and in case of injury sustained or disability occurred during the duty they are entitled for disability pension.

35. Similar is the case of Bombay Home Guards, who have been appointed as volunteers Home Guards under the Act. They also have given declaration that they have volunteered as a member of the Home Guard.

36. The Home Guards of N.C.T. of Delhi also have been appointed to the organization which is volunteer body under the Act. The provision discussed above makes it clear that the Chief Commissioner of Delhi only engage volunteers in the Home Guards. The Home Guards being volunteer body in the N.C.T. of Delhi, the appellants-Home Guards of Delhi cannot claim to be regular appointees.

37. It is not the case of the State Government that enrollment/appointments of the Home Guards were backdoor engagement and illegal made in violation of Articles 14 and 16 of the Constitution of India. Therefore, the decision of this Court in Umadevi is not applicable in the case of the appellant-Home Guards. Admittedly, there is no concept of wages. These volunteers are paid duty allowance and other allowances to which they are entitled. There is nothing on the record to suggest that they perform duties throughout the year.

38. On the other hand, it is the specific case of the State that as and when there is requirement they were called for duty and otherwise they remained in their homes. Therefore, in absence of any details about continuity of service, month to month basis or year to year basis, the duties and responsibilities performed by them throughout the year can neither be equated with that of the police personnel.â??

Thereafter, finally, the Honâ??ble Apex Court proceeded to hold that no relief could be claimed by way of regularization or by way of regular appointment, but in paragraph no. 39 the Court observed as follows:Â

â??However, taking into consideration the fact that Home Guards are used during the emergency and for other purposes and at the time of their duty

they are empowered with the power of police personnel, we are of the view that the State Government should pay them the duty allowance at such

rates, total of which 30 days (a month) comes to minimum of the pay to which the police personnel of State are entitled. It is expected that the State

Governments shall pass appropriate orders in terms of aforesaid observation on an early date preferably within three months.â??

21. It is, apparently, in the light of this judgment that the Allahabad High Court has directed the matter to be considered.Â

22. The next judgment, which is relevant for our consideration would be the subsequent judgment of the Honâ??ble Apex Court in the case ofÂ

State of Punjab and others Vs. Jagjit Singh and others reported in (2017) 1 SCC 148.Â Therein, pointedly, the question, which arose for consideration

was whether temporary employees, under which expression fell the categories of the daily-wage employees, ad-hoc appointees, employees appointed

on casual basis, contractual employees and the like, were entitled to equal pay, as was being enjoyed by the regular appointees.Â Therein, the

Honâ??ble Apex Court, undoubtedly, proceeded to hold that principle of equal pay for equal work would be available to all temporary employees

concerned so that they could claim right to wages at par with the minimum of the pay-scale of regularly engaged Government employees holding the

same post.Â The Court proceeded to hold that they would be entitled to draw wages at the minimum of the pay-scale (at the lowest grade, in the

regular pay-scale), extended to regular employees, holding the same post.Â The Court also proceeded to carve out certain exceptions, which are to

be found in paragraph no. 42.1 onwards.

23. We would think that we need not dwell any further having regard to the nature of the order we propose to pass.Â We would think that the

interest of justice would be sub-served if we modify the judgment of the learned Single Judge and instead direct the first appellant in all these cases to

consider and take a decision in this matter regarding the availability of benefit of minimum pay, as was directed in Annexure No. 2 judgment, namely,

the judgment in the case of Grah Rakshak, Home Guards Welfare Association Vs. State of Himachal Pradesh and others reported in (2015) 6 SCC

247.Â Â

24. In fact, we may notice that, by the order which is impugned (which we

notice, has not been interfered with as such by the learned Single Judge), it is not a case of denial of any benefit as such, but it is a case where there is an increase of the daily allowance from Rs. 350/- to Rs. 400/-.

25. Accordingly, we allow the appeals partly and modify the judgment and in place of the judgment of the learned Single Judge, we direct as follows:

We direct the first appellant to consider the case of the writ petitioners for payment of the same benefits, which have been provided in paragraph no.

39 of the judgment of the Honâ??ble Apex Court in the case of Grah Rakshak, Home Guards Welfare Â Association Vs. State of Himachal

Pradesh and others reported in (2015) 6 SCC 247. In considering the same, the first appellant is also free to take into consideration the judgment of the

Honâ??ble Apex Court in the case of State of Punjab and others Vs. Jagjit Singh and others reported in (2017) 1 SCC 148. The first appellant must

always bear in mind its duty to act as a model employer and also the provisions of Article 43 of the Constitution of India, which contemplates the

concept of living wage.Â The authority will also bear in mind, in particular, paragraph nos. 57 and 58 of the judgment of the Honâ??ble Apex Court

in the case of State of Punjab and others Vs. Jagjit Singh and others reported in (2017) 1 SCC 148.Â It will also take into consideration the fact that

Government of India has also directed, by the direction dated 16.09.2016, all States to implement the judgment of the Honâ??ble Apex Court.Â A

decision in this regard will be taken within a period of eight weeks from today.Â The State may also bear in mind that other States have implemented

the directions of the Honâ??ble Apex Court.Â Â

26. No order as to cost.Â Â Â Â Â Â