

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5056 OF 2002

SAHIB SINGH

.....APPELLANT(S)

Versus

STATE OF HARYANA & ORS.

.....RESPONDENT(S)

WITH

CIVIL APPEAL NO.5057 OF 2002

ORDER

The appellants in these two appeals were working as Turner and Electrician respectively in the office of Executive Engineer, Satluj Yamuna Link Project, Irrigation Department of the Government of Haryana. In the year 1997, the pay scale applied to them was Rs.950-1500. The appellants gave representations to the department for revision of pay scales from Rs.950-1500 to Rs.1200-2040 on the ground that turners and electricians in the Transport Department and other departments of the State Government had been extended the benefit of pay scale of Rs.1200-2040. After considering their representations, the Executive Engineer, by office order dated 22.4.1997, informed the appellants that their pay was refixed in the higher pay scale of Rs.1200-2040, subject to verification by the Accounts Officer. In pursuance of it, the appellants were paid the refixed salary in the increased pay scale with effect from April 1997.

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2. When the matter was referred to the Accounts Officer, he pointed out that the Executive Engineer had no authority to extend the benefit of higher pay scale to the appellants. Consequently, the Executive Engineer, by order dated 12.12.2000, withdrew the higher pay scale and directed recovery of the excess salary paid. As the said order was passed without issuing a show-cause notice, subsequently a show-cause notice dated 16.1.2001 was issued to the appellants. The said show-cause notice gave the reason for withdrawal. It stated that the functions of turners, fitters and electricians in the Transport Department were different from the functions of turners, fitters and electricians in the Irrigation Department and, therefore, the pay scales applicable to turners, fitters and electricians in the Transport Department could not be extended to the appellants.

3. Feeling aggrieved, the appellants approached the Punjab & Haryana High Court. Their writ petitions were rejected by the High Court by orders dated 17.5.2001. The said orders are under challenge.

4. We have considered the rival submissions. The contention of the appellants is that except the Irrigation Department all other departments in the State have extended the higher pay scales of Rs.1200-2040 to turners, fitters and

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electricians and there was no reason why the said pay scale should not be extended to them. It is also contended that their representations for higher pay scale were considered and accepted by the department and they had been paid salary in the higher pay scale from 1997 to 2000. They submit that there was no justification for withdrawing the higher pay scale. The respondents, on the other hand, have pointed out that the extension of benefit of higher pay scale was contrary to the rules; that the Executive Engineer had no authority to give a higher pay scale; that at all events, the order was provisional and subject to acceptance, verification and approval by the Accounts Officer; that the Accounts Officer did not approve the same; and that therefore the Executive Engineer who had issued the order earlier was justified in withdrawing the same.

5. As rightly contended by the respondents, merely because the turners, fitters and electricians in some other departments were given the benefit of higher pay scale, it is not possible to hold that the persons holding posts of similar description in the Irrigation Department should also be extended the benefit of higher pay scale. Admittedly, there has been no equation of the posts of turners, fitters and electricians in the Irrigation Department to the posts of turners, fitters and electricians in other departments. The

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respondents have contended that the qualifications, functions and duties of turners, fitters and electricians in the Irrigation Department were different from the qualifications, functions and duties of turners, fitters and electricians in other departments. Further revision of pay scales or extension of higher pay scale could not be directed or ordered by the Executive Engineer. It is a matter of policy where State Government has to take the decision.

6. In the circumstances, we find no reasons to interfere with the order of the High Court. We, however, make it clear that insofar as the excess amount paid between 1997 and 2000, the same shall not be recovered as the payment was not on account of misrepresentation or fraud on the part of the appellants concerned and the department had paid the said excess amounts being bonafide under the impression that they were entitled to such higher pay scales.

7. Learned counsel for the appellants submitted that the appellant Sahib Singh in C.A. No. 5056/2002 has retired, but his retirement benefits have been withheld in view of the pendency of his appeal in this Court. If so, the State Government shall release the same without any delay in accordance with law.

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8. Subject to the said modifications, the appeals are disposed of.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
October 15, 2008.

.....J.
(DR. MUKUNDAKAM SHARMA)