

(2013) 07 P&H CK 0730

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 921 of 2011 (O and M)

Surinder Singh and Another

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: July 29, 2013

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Tejinder Singh Dhindsa, J

Bench: Single Bench

Advocate: H.S. Sethi, Addl. A.G., Punjab, for the Respondent

Final Decision: Disposed Off

Judgement

Tejinder Singh Dhindsa, J.

Even on second call no one has put in appearance on behalf of the petitioner. Accordingly, this Court is constrained to proceed with the matter and decide the same. The petitioners, who are serving as Junior Engineers (Electrical) under the Department of P.W.D. (B&R), Punjab have filed the instant writ petition seeking the quashing of order dated 26.12.2010 (Annexure P-1) in terms of which respondents no. 3 to 6, who are stated to be their juniors were given the additional charge of the higher post of Sub Divisional Engineer. Further prayer in the petition is to vest such additional charge of the higher post with the petitioners.

2. In the written statement filed on behalf of respondents no. 1 and 2 a categoric stand has been taken that the additional charge of the vacant post of Sub Divisional Engineer (Electrical) had been given to respondents no. 3 to 6 along with 16 other Junior Engineers in their own pay scale in addition to their own duties purely as a stop gap arrangement. Even such additional charge vested in favour of the private respondents has since been withdrawn vide order dated 9.4.2012. Further categoric assertion is that at present no Junior Engineer (Electrical) is having the additional charge of the post of Sub Divisional Engineer (Electrical).

3. In the light of such specific stand having been taken on behalf of the State nothing survives in the instant writ petition. That apart, the Hon"ble Supreme Court in case of State of Haryana Vs. S.M. Sharma and others, had clearly held that no employee has a right to ask for or stick to a current duty charge. The relevant observations in this regard were to the following effect:-

12. We are constrained to say that the High Court extended its extraordinary jurisdiction under Article 226 of the Constitution of India to a frivolity. No one has a right to ask for or stick to a current duty charge. The impugned order did not cause any financial loss or prejudice of any kind to Sharma. He had no cause of action whatsoever to invoke the writ jurisdiction of the High Court. It was a patent misuse of the process of the court.

4. For the reasons recorded above, the present writ petition is disposed of as having been rendered infructuous. Petition disposed of.