

Devinder Singh and others v. The State of Punjab and another  
(G. C. Mital, J.)

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(4) When recovery was sought to be effected, the petitioners again came to this Court in writ petitions which are being disposed of by this order. The earlier decision between the parties would operate as *res-judicata* and regarding those who have not come to the Court earlier, we follow the same as binding precedent. Once that is so, there is obviously no merit in the writ petitions and the petitioners are bound to refund the amount to which they were not entitled and had received in pursuance of the stay order granted in their favour.

(5) The only point that remains for consideration is how much deduction should be made from the salaries of the petitioners per month to make recovery. According to petitioners a huge amount is sought to be deducted from their salaries in accordance with the provisions of Section 60 of the Civil Procedure Code in the case of salaried persons, out of the monthly salary recovery can be made of an amount after leaving first Rs. 400/-, and from the balance only 1/3rd can be recovered. On a consideration of the matter, we are of the view that it would be just and equitable to direct the State to make recovery from the petitioners in instalments, each of which shall not exceed the amount equal to, to be calculated in the manner indicated above, that is, out of the monthly salary, after leaving first Rs. 400/-, from the balance, 1/3rd would be deducted/recovered.

(6) With this order and directions, the writ petition Nos. 10644, 11929, 11284, 10989, 11839, 12546, 11285, 12040, 2467, 3943, 5912, 12547 and 11899 of 1990 are dismissed with no order as to costs.

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S.C.K.

Before G. C. Mital & G. S. Chahal, JJ.

DEVINDER SINGH AND OTHERS.—Petitioners.

*versus*

THE STATE OF PUNJAB AND ANOTHER,—Respondents.

Civil Writ Petition No. 3571 of 1990.

11th December, 1990.

*Constitution of India, 1950—Art. 14, 16, 226 & 227—Employees living in rural areas within 8 kms. allowed House Rent Allowance with effect from 1st January, 1986—Compensatory Allowance paid to employees in border areas with effect from 1st January, 1986—Rural*

*Area Allowance allowed to employees posted in rural areas with effect from 1st September, 1988—Concession does not confer any right—Such action—Whether discriminatory.*

*Held, that it is open to the State Government to allow allowances like rural areas allowance from a date it chooses to do so and this matter cannot be equated with house rent allowance or other compensatory allowances payable to employees living in cities/towns or in the border areas. It cannot be disputed that living cost in rural area is cheaper than that in the cities/towns. These are matters for the Government to see. Neither discrimination nor arbitrary action is established. Moreover, such like allowances are concession and does not confer any right. (Paras 4 & 5)*

*Petition Under Articles 226/227 of the Constitution of India praying that the Hon'ble Court may issue a writ of mandamus, certiorari or any other suitable writ, order or direction directing the respondents :*

- (i) To produce the complete records of the case;*
- (ii) a writ of mandamus be issued directing the respondent-authorities to extend the benefit of the instructions, Annexure P. 5 to the petitioners also;*
- (iii) All other consequential benefits flowing from the reliefs granted by this Hon'ble Court like arrears etc. be allowed to the petitioners;*
- (iv) the petitioners be also granted interest at the rate of 18 per cent per annum with the arrears when the same became due till the date of payment;*
- (v) the Hon'ble Court may grant any other relief deemed fit and just in the present case;*
- (vi) the petitioners be exempt from filing the certified copies of the annexures with the writ petition;*
- (vii) the condition of serving advance notices of the writ petition on the respondents be dispensed with;*
- (viii) costs of the writ petition be allowed to the petitioners.*

*Subhash Ahuja, G. K. Chathira and R. K. Chopra, Advocates, for the Petitioners.*

*H. S. Mattewal, A.G. Pb., and Rajiv Atma Ram, D.A.G. Pb., for the Respondents.*

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### JUDGMENT

*Gokal Chand Mital, J.*

(1) *Vide* Government decision dated 30th August, 1988, Copy of which is Annexure P3, rural area allowance was allowed to the employees of the Government, who were posted in the rural areas, with effect from 1st September, 1988.

(2) In certain rural areas, which were within 8 Kms/5 miles of the cities/towns, the Government employees had earlier been allowed house rent allowance, and, in certain border areas, compensatory allowance was being paid to the government employees. The petitioners before us were not getting any of these allowances as they were neither within 8 Kms/5 miles limits of the cities/towns, nor were they posted in border areas. They were allowed rural area allowance for the first time with effect from 1st September, 1988,—*vide* Annexure P.3.

(3) The only relief claimed in these writ petitions is that the employees, who are getting house rent allowance earlier on the basis of the pay commission report, have been allowed higher house rent allowance with effect from 1st January, 1986 and on the same analogy petitioners should also be allowed rural area allowance with effect from 1st January, 1986. The claim is based on the anvil of Articles 14 and 16 of the Constitution of India.

(4) On a consideration of the matter, we are of the view that it is open to the State Government to allow allowances like rural area allowance from a date it chooses to do so and this matter cannot be equated with house rent allowance or other compensatory allowances payable to employees living in cities/towns or in the border areas. It cannot be disputed that living cost in rural area is cheaper than that in the cities/towns. These are matters for the Government to see. Neither discrimination nor arbitrary action is established.

(5) Moreover such like allowances are concession and does not confer any right as held by this Court in the case of *Nand Lal vs. Punjab State*. Accordingly Civil Writ Petition Nos. 3571, , 11399, 13122, 7358, 7427, 13855, 8445, 3281, 3138, 2591, 2599, 5730, 5347, 5345; 4726, 4727, 8338, 10776 and 8444 of 1990 are dismissed. No costs.

P.C.G.

(1) 1991(1) Recent Services Judgment 131.