

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.21832 of 2013 (O&M)

Date of decision: 13.05.2015

Ganpat Rai and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. P.K.Mutneja, Advocate
for the petitioners (in CWP No.21832 of 2013).

Mr. Y.P.Malk, Advocate
for the petitioners (in CWP Nos.24211 and 19375 of 2014).

Mr. Keshav Gupta, AAG, Haryana.

AMIT RAWAL J. (Oral)

This order of mine shall dispose of three writ petitions bearing Nos.21832 of 2013, 24211 and 19375 of 2014 as the similar questions of law and facts are involved in the same.

For the sake of convenience, the facts are being taken from CWP No.21832 of 2013.

The petitioners have approached this Court for issuing a writ in the nature of mandamus for directing the respondents to fix the House Rent Allowance of the petitioners in the 'Y' category as per

classification of Towns and Cities as issued by the Finance Department vide letter dated 29.07.2009 (Annexure P-7).

Mr. P.K.Mutneja and Mr. Y.P.Malk, learned counsel for the petitioners stated that the petitioners are entitled to pay and allowances as admissible under the Punjab Civil Services Rules, applicable to the State of Haryana. The current pay and allowances being paid to the petitioners are as settled by the Pay Commissions and the petitioners are paid House Rent Allowance at the rate of 10% of the basic pay and the grade pay, whereas, vide instructions dated 04.04.1983, Annexure P-2, the cities of Karnal and Panipat have been classified as 'A' class cities.

They further submitted that vide instructions issued on 27.01.2009, there was a change in the pattern in which House Rent Allowance was admissible to the Haryana Government employees and three categories had been created on the basis of classifications of cities and town as based on the population. Towns and cities having a population of 50 lakhs and above were classified as 'X' and the employees posted there were/are entitled to House Rent Allowance at the rate of 30%, whereas, towns and cities having a population between 5 lakhs to 50 lakhs were/are entitled to 20%, as having classified as 'Y' and the third category belonging to towns and cities having a population of less than 5 lakhs which were classified as category 'Z', such persons were/are entitled to House Rent Allowance at the rate of 10% of the basic pay and grade pay.

The aforementioned notification was modified on 29.07.2009, though the categorization and classifications remained the same but the certain further conditions were added namely the tri-city of Chandigarh, Panchkula and Mohali were treated as one single unit.

The petitioners have alleged that the population of Karnal and Panipat is more than 5 lakhs, therefore, they are entitled to 20% House Rent Allowance and despite the notification, the respondents have not pondered on this aspect and despite promulgation of the instructions and notification, the petitioners are getting House Rent Allowance at the rate of 10%.

Mr. Keshav Gupta, learned State counsel for the respondents submitted that the instructions vide notification dated 27.01.2009, prescribed the revised criteria for towns and cities based on population, whereas, modification in the month of July, 2009, i.e. 29.07.2009, was as per 2001 Census. The relevant portion of the instructions, clarification and modification read thus:-

<i>Revised criteria for classification of cities and town based on population</i>	<i>Revised classification of cities/towns</i>	<i>Rates of HRA as % of pay in the Pay Band +Grade Pay +MSP+NPA</i>
50 lakhs & above	X (Earlier classified as A-1)	30
50-5 lakhs	Y (Earlier classified as A, B-1 & B-2	20
Below 5 lakhs	Z (Earlier classified as C and unclassified.	10

<i>Revised criteria for classification of cities and town based on population on the basis of Census 2001</i>	<i>Revised classification of cities/towns</i>	<i>Rates of HRA as % of pay in the Pay Band +Grade Pay +NPA</i>
50 lakhs and above	X	30
50 to 5 lakhs	Y	20
Below 5 lakhs	Z	10

He thus submitted that the petitioners are entitled to the House Rent Allowance at the rate of 10% and there is no occasion for the respondents-authorities to pay the House Rent Allowance at the rate of 20%.

I have heard learned counsel for the parties and appraised the paper book.

Before approaching this Court, the petitioners have submitted detailed representations dated 10.07.2012, 8.5.2014 and 29.5.2014. Since as per submission and keeping in view the population of Karnal and Panipat, the petitioners ought to have been categorized and considered in 'Y' category entitling them 20% House Rent Allowance, but despite receipt of the representations, respondents have not taken any decision. Therefore, without expressing any opinion on merits of controversy, I deem it appropriate to issue directions to the respondents to decide the aforementioned representations, wherein, the petitioners have specifically claimed 20% and 30% House Rent Allowance on the basis of the instructions issued vide notification dated 27.01.2009

and modified on 29.07.2009. The respondents are directed to decide such representation after giving the opportunity of hearing to the petitioners by passing a speaking and reasoned order within a period of three months from the date of receipt of a certified copy of this order. In case, the respondents-authorities decide to grant the relief to the petitioners, the same shall be given to the petitioners within another period of two months and if otherwise, the petitioners shall be supplied a copy of the order in order to enable them to vindicate their grievance, if advised.

The petitioners are given liberty to submit any fresh representation, if any.

Writ petitions stand disposed of.

(AMIT RAWAL)
JUDGE

May 13, 2015
savita