

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 28288 of 2013

Date of Decision : November 27, 2015

Rohtash Singh and others Petitioners

Vs.

State of Haryana and others Respondents

Case No. : C. W. P.No. 26822 of 2014

Date of Decision : November 27, 2015

Lakhmi Chand Tanwar and others Petitioners

Vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Umesh Narang, Advocate
 for the petitioners (in **C. W. P. No. 28288 of 2013**).

 Mr. Anand Bhardwaj, Advocate
 for the petitioners (in **C. W. P. No. 26822 of 2014**).

 Mr. Harish Rathee, Senior DAG, Haryana.

* * *

DEEPAK SIBAL, J. :

As the issues of fact and law are identical, these two writ
petitions being **C. W. P. No. 28288 of 2013** and **C. W. P. No. 26822 of 2014**

were taken up for hearing together and are being disposed of through the present judgment.

Through the afore-referred petitions, the petitioners have challenged the withdrawal of bunching effect in their pay scales, which had been done on the basis of instructions/letter dated 14.06.2010 issued by the Finance Department, Government of Haryana.

It is not disputed by the learned State counsel that the orders impugned by the petitioners are solely based on the instructions/letter dated 14.06.2010 issued by the Department of Finance, Government of Haryana. That being so, it would not take me long to allow the present petitions as the instructions/letter dated 14.06.2010 have already been considered and quashed by this Court in **C. W. P. No. 18438 of 2010 – Subhash Chander and others vs. State of Haryana and others**, decided on **03.11.2012**, by holding as under :-

“In the light of the above, the interpretation which has been put forth by the respondents through the impugned order dated 14.6.2010 (Annexure-P-4), stating therein that the proviso attached to Rule 7 of the HCS (RP) Rules, 2008 and Rule 18 of the HCS(ACP) Rules, 2008, is not applicable to the cases where the pay revision has been upgraded, is contrary to the Rules and, therefore, cannot sustain. By now it is a well settled principle of law that administrative

orders/instructions cannot be issued against or beyond the statutory Rules and thus, cannot amend, add, alter or modify the statutory Rules, which has been sought to be done by the respondents, vide impugned order dated 14.6.2010 (Annexure-P-4). Administrative instructions can only supplement and explain the statutory Rules, but cannot override nor set at naught the mere object of enactment, unless such an intention is clear and is permitted from the statute itself. Rules framed under Article 309 of the Constitution of India has overriding effect upon the administrative instructions which although, may be subsequent, but contrary to the statute and thus, cannot survive.

In view of the above, the impugned order dated 14.6.2010 (Annexure-P-4) is hereby quashed being contrary to the HCS(RP) Rules, 2008 and HCS(ACP) Rules, 2008. The writ petitions are allowed. The reduction of the pay of the petitioners in pursuance to the order dated 14.6.2010 (Annexure-P-4) consequently stands quashed. Recovery, if any, effected from the petitioners, on account of re-fixation of their pay

on the basis of order dated 14.6.2010 (Annexure-P-4) be refunded to the respective petitioners within a period of three months from today. The consequential benefits to the petitioners be granted within a further period of two months.

[Emphasis supplied]

The intra-court appeal, filed by the State of Haryana, challenging the aforementioned judgment being **L. P. A. No. 361 of 2014 – State of Haryana and others vs. Subhash Chander and others** was also dismissed by the Division Bench of this Court on 12.05.2014.

In view of the above, when the sole basis of the impugned orders impugned has been quashed, they have no legs to stand on. Resultantly, the impugned orders dated 25.11.2013 and 28.11.2013 in **C. W. P. No. 28288 of 2013**, as also the impugned order dated 16.10.2014 in **C. W. P. No. 26822 of 2014** are ordered to be quashed.

Both the writ petitions being **C. W. P. No. 28288 of 2013** and **C. W. P. No. 26822 of 2014** are allowed. The reduction of pay of the petitioners in pursuance to the impugned orders also consequently stands quashed, with all consequential benefits.

A photocopy of this judgment be placed on the file of other connected case.

**(DEEPAK SIBAL)
JUDGE**

November 20, 2015

monika