

**CWP No.2427 of 2013 (O&M),
CWP No.2573 of 2013 (O&M) &
CWP No.21804 of 2012 (O&M)**

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

- 1. CWP No. 2427 of 2013 (O&M)**
Roshan Lal ...Petitioner
Versus
The Haryana Power Generation Corp. Ltd. and others ..Respondents
- 2. CWP No. 2573 of 2013 (O&M)**
Krishan Dev ...Petitioner
Versus
The Haryana Power Generation Corp. Ltd. and others ..Respondents
- 3. CWP No.21804 of 2012 (O&M)**
Raghubir Singh Saini ...Petitioner
Versus
Haryana Power Generation Corp. Ltd. and Anr. ..Respondents

Date of Decision:- 16.03.2016

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. J.K. Goel, Advocate, for the petitioners.
Mr. Sandeep Virmani, Advocate, for respondent in 1st case.
Mr. Sudhir Hooda, Advocate, for respondent in 2nd case.
Mr. Pardeep Singh Poonia, Advocate,
for respondent in 3rd case.

RITU BAHRI, J. (Oral)

This order shall dispose of the above three petitions as common question of facts are involved in both these petitions. However, for the facility of reference, the facts are being taken from CWP No.2427 of 2013.

Petitioner is seeking quashing of impugned letter/order dated 19.04.2012 (Annexure P-4) whereby the additional advance increment granted to the petitioner has since been withdrawn and the recovery has sought to be made.

The petitioner was appointed as AFM on 30.09.1985 on work charge basis in the then HSEB, now HPGCL. The services of the petitioner was later on regularized by the competent authorities to the post of Foreman-I on 29.10.1986 and thereafter the said post was re-designated as AAE by the authorities in the month of June 2010. The petitioner was given commendation letter on 27.09.1989 (Annexure P-1) and thereafter the authorities decided to give him one advance increment with future effect for his outstanding service on completion of work of Stage-I of Western Yamuna Canal Hydro Electric Project, vide office order dated 27.09.1989 (Annexure P-2). Thereafter, the authorities again on 31.08.2007 sanctioned one more advance increment for one year for exemplary work done by the petitioner on the commission of Stage-2, WYC, HE Project, Budhkalan, vide office order dated 31.08.2007 (Annexure P-3). Thereafter, the recovery of an amount of ₹6,898/- per month was being made from the

petitioner w.e.f. 01.04.2012 and he (petitioner) came to know that the pay had been re-fixed and the recovery order was passed on 19.04.2012 (Annexure P-4). Hence, the present writ petition.

Learned counsel for the petitioner had referred to an Instruction dated 25.05.2010, issued by the Financial Commissioner & Principal Secretary to Government of Haryana, Finance Department, regarding recovery of excess payment/amount made to Government employee. As per above instruction, if any employee receives an excess payment for a long period i.e. more than 6 months, then no recovery should be effected as it would cause undue hardship to him.

Respondent(s) in the written statement have not given reference to this instruction. However, the recovery of ₹6,898/- is being justified on account of non-adjustment of advance increment by the DDO inadvertently. As per rule 4.10 of the Punjab Civil Services Rule, Volume 1 Part I which clearly stipulates that “in case the increments granted in advance, it is usually the intention that the Government employee should be entitled to increments in the same manner as if he had reached his position in the scale in the ordinary course and in the absence of special orders to the contrary he should be placed on exactly the same footing as regards future increment as a Government employee who has so risen.” It has been further stated in the written statement that the Government of Haryana, vide notification dated 22.07.2002 (Annexure R-2/1) has clarified that the advance increment was being misinterpreted as grant of additional increment. A perusal of notification (Annexure R-2/1) shows that the

provision was for “pre-mature increment” or “advance increments” and not “additional increments”. If a person get his normal date of increment on 1st March, 1999 and has granted advance increment in June 1999, the advance increments has to be adjusted with the increments, which fall due on 01.03.2000 and 01.03.2001, it means that he will not be entitled to get his normal increments on 01.03.2000 and 01.03.2001 and he will get the normal increment only w.e.f. 01.03.2002.

After hearing the learned counsel for the parties, going through the record, this Court is of the considered view that the benefit of advance increment is to encourage the person in the service to get the increment before his due. The obvious conclusion as per instruction (Annexure R-2/1) would be that in case after getting the benefit of advance increment even if the normal increment is granted, the employee will get benefit of two increments, which is not entitled. However, the recovery should not be made from the petitioners as per instructions dated 22.07.2002 (Annexure R-2/1). It is not the case of the respondents that the pay was fixed by any misrepresentation made by the petitioners. In the written statement it has been stated that it was on account of wrong interpretation of the DDO inadvertently. Therefore, the present writ petitions are allowed and the recoveries being sought from the petitioners, vide impugned orders, are hereby set aside. However, the petitioners shall get their re-fix salary as per instructions dated 22.07.2002 (Annexure R-2/1).

March 16, 2016
naresh.k

(RITU BAHRI)
JUDGE