

201

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 1719 of 2007 (O/M)

Date of decision : 3.5.2017

Roop Chand and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajesh K. Moudgil, Advocate, for the petitioners.

Mr. Apoorv Garg, Deputy Advocate General, Haryana.

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

KULDIP SINGH J. (ORAL)

Heard.

The petitioners, who were working in the Health Department of State of Haryana, were granted the benefit of Assured Career Progression Scheme (in short 'ACP Scheme') on completion of 10 years and 20 years of service in terms of Haryana Civil Services (Revised Pay) Rules, 1998, which came into force with effect from 1.1.1996. Later on, the Government issued the instructions Annexure-P-3, vide Endorsement No. 6/149/2002-PR(FD), dated 22.8.2003. On the basis of the said instructions (Annexure-P-3), a show cause notice was issued to petitioner No. 1 on 7.9.2006 (Annexure-P-4) and thereafter the impugned order dated 23.10.2006 (Annexure-P-6) was passed, whereby the benefit of increment in the ACP scale from 1.1.1996 was withdrawn in view of the instructions dated 22.8.2003 (Annexure-P-3), issued by the Government and the excess payment of Rs. 10,624/- was ordered to be recovered from the petitioner.

CWP No. 1719 of 2007 (O/M)

It comes out that the said instructions dated 22.8.2003 (Annexure-P-3), issued by the Government, was struck down by a Division Bench of this Court in Om Parkash and others Versus State of Haryana and others, 2008 (3) SCT 310. The relevant extract from the said Division Bench judgment of this Court in Om Parkash's case (supra) is reproduced as under :-

“16. So far as Annexure-P-6, letter dated 22.8.2003 is concerned, the clause envisaging that the Government employee will get one increment for every three 'actual increments' earned by the employee in the present scale is against the spirit of Revised Pay Rules, 1998 and ACP Rules, 1998. If the word 'actual' is taken into account, in that case, the scheme will itself become redundant as no employee could earn more than ten increment in the present scale and granting increment up to 16th stage would render nugatory. Previous revision of pay scale was made in the year 1986. The original scheme explains the stages in the present scale and not the “actual” increment earned.

17. Instructions cannot be issued against the statutory rules/scheme. The Hon'ble Apex Court in authority reported as Punjab Water Supply and Sewerage Board V. Ranjodh Singh and others, 2007 (1) SCT 637; 2007 (2) Recent Services Judgment 61, has held that executive instructions cannot override the statutory rules. So, the word incorporating 'actual' in Annexure-P-6 being executive instructions against the statutory Revised Pay Rules, 1998 and ACP Rules, 1998 cannot be held to be valid and the same stand struck off.”

Since the said instructions dated 22.8.2003 (Annexure-P-3), issued by the Government, have been set aside, therefore, the impugned order dated 23.10.2006 (Annexure-P-6) has to be set aside.

Accordingly, the present writ petition is allowed and the

CWP No. 1719 of 2007 (O/M)

impugned order dated 23.10.2006 (Annexure-P-6) is hereby quashed.
Recovery, if any, made from the petitioners in terms of instructions dated
22.8.2003 (Annexure-P-3), issued by the Government, shall be refunded to
them alongwith interest, as per the Government instructions.

(KULDIP SINGH)
JUDGE

3.5.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No