

*CWP No.17496 of 2014 &
other connected cases*

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
[1]**

**CWP No.17496 of 2014
Date of Decision:-18.03.2017.**

Om Parkash and others

.....Petitioner(s)

Versus

State of Haryana and another

....Respondent(s)

[2]

CWP No.14772 of 2014

Ram Chander and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[3]

CWP No.16951 of 2014

Randhir Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[4]

CWP No.19006 of 2014

Vijay Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[5]

CWP No.14815 of 2014

Om Parkash and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[6]

CWP No.14831 of 2014

Ramesh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[7]

CWP No.14840 of 2014

Babu Lal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[8]

CWP No.5675 of 2015

Tara Chand Sharma and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[9]

CWP No.10374 of 2015

Pardeep Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[10]

CWP No.16086 of 2015

Madan Lal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[11]

CWP No.5502 of 2015

Sandeep Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[12]

CWP No.5511 of 2015

Sarla Devi

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[13]

CWP No.5631 of 2015

Rattan Lal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[14]

CWP No.6265 of 2015

Raj Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[15]

CWP No.6160 of 2015

Subhash Chander and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[16]

CWP No.6667 of 2015

Shri Niwas Sharma and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[17]

CWP No.7673 of 2015

Rajender Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[18]

CWP No.7988 of 2015

Rajesh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[19]

CWP No.8532 of 2015

Jai Narain and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[20]

CWP No.8576 of 2015

Ram Niwas Sharma and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[21]

CWP No.9184 of 2015

Ajay Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[22]

CWP No.9386 of 2015

Jitender Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[23]

CWP No.9437 of 2015 (O&M)

Tej Pal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[24]

CWP No.9583 of 2015

Abdul Hussain Khan and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[25]

CWP No.9994 of 2015

Harbans Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[26]

CWP No.14857 of 2015

Kulwant Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[27]

CWP No.14740 of 2015

Shyam Sunder and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[28]

CWP No.18407 of 2014

Brij Mohan and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[29]

CWP No.19112 of 2015

Bhajan Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[30]

CWP No.20474 of 2015

Raj Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[31]

CWP No. 22633 of 2015

Rakesh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[32]

CWP No. 24229 of 2015

Karnail Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[33]

CWP No.25875 of 2015

Anil Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[34]

CWP No. 87 of 2016

Ramesh Chand and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[35]

CWP No. 20499 of 2014

Din Dayal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[36]

CWP No. 8996 of 2015

Ajay Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[37]

CWP No. 23002 of 2015

Arvind Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[38]

CWP No. 10492 of 2016

Bhoop Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[39]

CWP No. 10543 of 2016

Shyam Lal and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[40]

CWP No. 11275 of 2016

Pritam Lal and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[41]

CWP No. 13020 of 2016

Sant Ram and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[42]

CWP No. 13065 of 2016

Rohtash Kumar and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[43]

CWP No. 2835 of 2016

Manjit Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[44]

CWP No. 3432 of 2016

Krishan Kumar and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[45]

CWP No. 4046 of 2016

Rajesh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[46]

CWP No. 4203 of 2016

Mohan Lal Bindal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[47]

CWP No.6324 of 2016

Rajpal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[48]

CWP No. 7231 of 2016

Virender Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[49]

CWP No. 8258 of 2016

Ramesh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[50]

CWP No. 9634 of 2016

Satpal and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[51]

CWP No. 9671 of 2016

Gurmail Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[52]

CWP No. 5746 of 2016

Naresh Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[53]

CWP No. 13233 of 2016

Ishwar Chand and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[54]

CWP No.13531 of 2016

Shobhit Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[55]

CWP No.13210 of 2016

Gurmej Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[56]

CWP No.14301 of 2016

Rohtas Singh and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[57]

CWP No. 20465 of 2014

Rattan Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[58]

CWP No. 15045 of 2016

Jai Parkash and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[59]

CWP No.15490 of 2016

Meenu Mumtaz and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[60]

CWP No.14631 of 2016

Jaspal Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[61]

CWP No.16137 of 2016

Kuldeep Singh and another

.....Petitioner(s)

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

....Respondent(s)

[62]

CWP No.14736 of 2016

Chander Bhan Sharma and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[63]

CWP No.18070 of 2015

Ranbir Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[64]

CWP No.16400 of 2016

Shashi Prabha and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[65]

CWP No. 16935 of 2016

Harbans Lal and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[66]

CWP No. 17540 of 2016

Roop Chand and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[67]

CWP No. 16987 of 2016

Bhagat Ram and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[68]

CWP No. 18586 of 2016

Sube Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[69]

CWP No. 22776 of 2016

Smt. Balvinder Kaur and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[70]

CWP No.23022 of 2016

Yashodhra Devi and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[71]

CWP No.16622 of 2016

Sandeep Kumar and others

.....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

[72]

CWP No.24496 of 2016

Smt. Bimla Devi and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[73]

CWP No. 4445 of 2017

Mahender Singh and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[74]

CWP No. 26584 of 2016

Krishna Devi and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

[75]

CWP No. 4173 of 2013

Ram Phal

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Umesh Narang, Advocate,
Ms. Sushma Varma, Advocate,
Mr. Vikas Chatrath, Advocate,
Mr. Khushkaran, Advocate,
Mr. Jainender Pal Singh, Advocate,
Mr. Fateh Saini, Advocate,
Mr. Vikas Sonak, Advocate for

Mr. Deepak Sonak, Advocate,
for the petitioner(s).

Mr. Ravi Dutt Sharma, DAG, Haryana.

Mr. R. Kartikeya, Advocate for
respondent No.3 (in CWP No.23547 of 2016).

P.B. BAJANTHRI, J. (Oral)

- 1.) By this common order, the above Civil Writ Petitions shall be disposed of as the issue involved in all these cases are identical. For brevity, facts are being taken from CWP No.17496 of 2014.
- 2.) In the instant writ petition, the petitioners have questioned the validity of the impugned condition stipulated in Annexure P-3. Extract of Annexure P-3 reads as under:-

“5. These orders shall be applicable with immediate effect i.e. w.e.f. issuance of these orders. In such cases where ACP has already been granted, the existing ACP Grade Pay shall be replaced with modified ACP Grade pay without the benefit of increment. Other terms and conditions for grant of ACP Grade Pay and fixation of pay therein shall remain unchanged.”

Further the petitioners have sought for a direction to the respondents to extend the benefit of modified ACP Grade pay and grant of ACP scale w.e.f. 1.1.2006 from the date the pay revision was actually given effect. In these bunch of petitions some of the petitioners are in service as on 4.3.2014 and some of them are retired. Thus, they form a separate class of persons. Having regard to the status of the petitioners read with order dated 4.3.2014 vide Annexure P-3, question for consideration is whether order dated 4.3.2014 which has been issued while invoking under Rule 26 and Rule 28 of the Haryana Civil Services (Assured Career Progression)

Rules, 2008 dated 30.12.2008 while giving effect from 1.1.2006 is applicable to those who are in service and those who are retired as on 4.3.2014 or not. The State Government issued Rules called Haryana Civil Services (Assured Career Progression) Rules, 2008 on 30.12.2008. These Rules deemed to have come into force on 1.1.2006. For the purpose of deciding the present litigation, it is necessary to read Rule 2 which reads as under:-

***2. Categories of Government servants to
whom the rules apply***

(1) Save as otherwise provided by or under these rules, these rules shall apply to persons appointed to Civil Services and posts of group 'A', 'B', 'C' and 'D' in connection with the affairs of the Government of Haryana and whose pay is debitable to the Consolidate Fund of the State of Haryana and are mentioned in the Schedule I of these rules.

(2) These shall not apply to:-

a. Officers of Judiciary working in connection with the affairs of Haryana State;

b. Persons not in whole time employment;

c. Persons paid out of contingencies;

d. Persons paid otherwise than on monthly basis, including those paid on a piece-rate basis or on the basis of daily wages or on consolidated contractual payment;

e. Any other class or category of persons whom the Government may by order, specifically exclude from the operation of all or any of the provisions contained in these rules;”

3.) The State Government on the representations and persistent demand of Haryana Government employees insofar as extending the benefit

of ACP those who have completed 10, 20 and 30 years was modified to 8, 16, and 24 years, respectively on 4.3.2014. On 4.3.2014 itself the official respondents found that there was error in respect of first and second category insofar as modified ACP Grade Pay to the extent that 1650-1800-2000 (1st 2nd and 3rd ACP) instead of 1800-1900-2000 (1st 2nd and 3rd ACP). The same was noticed by the Department which is evident from the noting dated 4.3.2014 which reads as under:

“It was agreed upon between the representatives of the Haryana Karamchari Talmel Committee and the State Govt. to provide the grade pay of Rs.1800/- and 1900/-respectively in 1st and 2nd ACP of Items No.1 & 2 of notification No.1/83/2008-1PR (FD), dated 04.03.2014. However, there is a minor mistake at the time of issuance of the order. Hon'ble CM has, therefore, ordered that necessary correction and amendment be made in the notification as per the agreement made with the representatives of the Haryana Karamchari Talmel Committee.”

4.) Consequently, on the very same day while rectifying the first and second category of modified ACP Grade pay to the extent that 1800-1900-2000 (1st 2nd and 3rd ACP) issued an order in which top of the order it was stated “(to be substituted bearing with same number, point and date)”. These words are issued with reference to rectifying the error committed by the officials insofar as 1st and 2nd category of modified ACP Grade Pay. Therefore, it does not mean that the substitution of ACP Rules issued on 30.12.2008. In view of these factual aspects, learned counsel for the petitioners submitted that the petitioners who have already retired from service as on 4.3.2014 are entitled to benefit of 4.3.2014 order for the

reasons that they have been granted the benefit of 10, 20 and 30 years ACP benefit which is required to be modified to 8, 16 and 24 years. It was further contended that the retired employees form a class and those who are in service, they form a class. There would be discrimination in extending the benefit of ACP vide order dated 4.3.2014. Hence, the retired employees are also entitled for the benefit of 4.3.2014 order. Therefore, condition cited supra is arbitrary and illegal.

6.) On the other hand, learned counsel for the respondents vehemently contended that the ACP benefit which was introduced on 30.12.2008 has been modified to the extent of 8, 16 and 24 years instead of 10, 20 and 30 years due to persistent demand of Haryana Government employees. Therefore, it is not a substitution of 2008 Rules as contended by petitioners. Hence, those who are retired from service are not entitled for the benefit of 4.3.2014 order.

7.) Heard learned counsel for the parties.

8.) Crux of the matter is whether the benefit of order dated 4.3.2014 arising out of ACP Rules, 2008 could be extended to those who have retired prior to 4.3.2014 and to those who are in service as on 4.3.2014 or not. The order dated 4.3.2014 vide Annexure P-3 while invoking under Rule 26 and 28 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 dated 30.12.2008 is not applicable to such of those retired employees who have retired prior to 4.3.2014 for the reasons that having regard to the applicability of Clause Rule 2 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 cited supra is concerned is not applicable to the retired employees. Therefore, whatever the rules made

with the order dated 4.3.2014 is not applicable to those who have retired from service. Accordingly, insofar as petitioners who have retired from service prior to 4.3.2014, the present petition stands dismissed.

9.) Learned counsel for the petitioners those who have retired from service relied on decision of this Court passed in LPA No.352 of 2014 (***State of Punjab and others Vs. A.P. Sharma and others***) has considered the effect of retro active. Therefore, in terms of the said decision even for the retired employees are entitled for benefit of ACP from retrospective date. Perusal of the facts of the case in LPA read with the present matter, it is entirely different. There the question is relating to pension whereas in the present case relates to ACP when the ACP Rules, 2008 is very specific to the extent of application of ACP Rules, 2008 those who are in service and not for the retired employees. Therefore, the cited decision by the petitioners counsel is distinguishable. The same is not applicable to the retired persons like petitioners in these bunch of petitions.

10.) The persons who are in service prior to 4.3.2014, the benefit of order dated 4.3.2014 is applicable to the extent that grant of ACP to those who have completed 8, 16 and 24 years of service, the same cannot be denied prospectively i.e. after 4.3.2014. Having regard to the fact that 4.3.2014 order is not substitution to the 2008 Rules as is evident from the fact that on 4.3.2014 certain modified ACP Grade pay in respect of category I and II was incorrect. In order to rectify the same, the official respondents have proceeded to pass a fresh order on 4.3.2014 with reference to cited note (supra). In that context the word “(to be substituted bearing with same number and date)” has been indicated. In other words it does not mean that

the extent of rectifying the category 1 and 2 and modified ACP Grade Pay from 10650-10800-2000 (1st 2nd and 3rd ACP) to 1800-1900-2000 (1st 2nd and 3rd ACP), respectively. In view of these factual and legal aspects the petitioners are not entitled for any benefit retrospectively. In other words intervening period from 1.1.2006 to 4.3.2014 is applicable to only those who are in service as on 4.3.2014 and not for those who have retired from service prior to 4.3.2014.

11.) With the above observations, writ petitions stand disposed of.

(P.B. BAJANTHRI)
JUDGE

March 18, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.