

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.14830 of 2017

Date of decision: 20.12.2017

Ram Parsad & others

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Subhash Ahuja, Advocate
Mr.Jawahar Lal Goyal, Advocate
Mr.S.K.Yadav, Advocate
Mr.Pankaj Middha, Advocate
Mr.Saurabh, Dalal, Advocate
Mr.Anand Bhardwaj, Advocate
Mr.Sandeep Goyat, Advocate
Mr.L.R.Nandal, Advocate
Mr.Vikram Sheoran, Advocate
Mr.Neeraj Sheoran, Advocate
Mr.Sanjeev Majra, Advocate
Mr.R.K.Saini, Advocate
Mr.S.K.Birla, Advocate
Mr.Vikas Lochab, Advocate
Mr.Anish Batra, Advocate
Mr.S.K.Chauhan, Advocate, for the petitioners.

Ms.Shruti Jain Goyal, AAG, Haryana.

Mr.J.S.Rana, Advocate, for
Mr.Vinod S.Bhardwaj, Advocate, for respondents No.4, 6 & 7
in CWP-23851-2017.

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of 82 connected matters, i.e.,
CWP-14830, 12927, 15560, 15603, 16475, 14119, 15443, 16563, 16657,
16795, 16813, 16927, 17158, 17944, 19450, 19282, 18325, 19303, 18332,
18333, 18339, 18400, 18563, 18751, 19269, 19644, 19766, 20047, 20117,
20159, 20495, 25023, 26749, 27017, 27053, 27128, 18156, 18556, 207,
20969, 21037, 9227, 23443, 23454, 23949, 23926, 23854, 22080, 22074,
20990, 21573, 21310, 23179, 23217, 26028, 26485, 26554, 26699, 855,
906, 917, 12624, 13288, 22052, 24332, 25111, 24216, 24906, 9828,

CWP-14830-2017 & other connected cases

13356, 27212, 27249, 27974, 6813, 27645, 25441, 26627, 25735, 25818, 26024 & 26289-2017 & 4673-2014. Facts have been taken from the lead case, i.e., CWP-14830-2017.

Petitioners seek direction to remove the anomaly in the pay of the petitioners by fixing the pay at par with the juniors, in terms of the judgment passed in CWP-11254-2010 titled *Neelam Rani Vs. State of Haryana & others*, decided on 15.05.2013 (Annexure P-10). Similarly, reliance has also been placed upon another order passed in CWP-4739-2011 titled *Mukesh Kumar Bhatnagar & others Vs. State of Haryana & others*, which was disposed of in the same terms on 11.07.2016 (Annexure P-11) and accordingly, all consequential benefits are sought, like arrears along with interest @ 6% per annum.

The grouse of the petitioners mainly is that on account of the revision of pay-scales w.e.f. 01.01.2006, by notifying the Haryana Civil Services (Revised Pay) Rules, 2008, a different criteria was adopted for Teachers who were recruited prior to 01.01.2006 and those who were recruited after 01.01.2006. The result was that the employees who were recruited after 01.01.2006, who, despite being junior to the petitioners, started drawing more pay whereas the petitioners who were recruited prior to 01.01.2006, their pay was fixed at a lessor amount. It was, in such circumstances, that large number of cases came to be filed in which large number of petitioners are there and in the present lead case, there are as many as 108 petitioners, posted in different districts.

It is the case of the State that instructions dated 18.08.2009

(Annexure P-7) were issued whereby the entry pay of post 01.01.2006 direct recruits was reduced and prescribed to be re-fixed from the date of the joining and the difference of pay was allowed as personal pay, to be adjusted and subsumed in future increments. It is, in such circumstances, now, State Counsel has placed on record order dated 21.11.2017, passed by the Addl.Chief Secretary to Government of Haryana, wherein, in principal, a decision has been taken to implement the judgment of **Neelam Rani** (supra) in all similarly placed cases. Resultantly, it has been decided that the pay of the existing employees of pre-01.01.2006 who are covered under the aforesaid judgment, pay of such Government employees (seniors) appointed before 01.01.2006, may be stepped up, in the shape of personal pay, to be subsumed in future increments, at par with their juniors, appointed after 01.01.2006 but before 18.08.2009. The order dated 21.11.2017 reads as under:

“Government of Haryana

Finance Department

No.1/83/2008-2PR (FD)

Dated 21st November, 2017

Orders

Subject: Setting right the anomaly between 'pre-1.1.2006' and 'post-1.1.2006' direct recruits arising out of the application of Haryana Civil Services (Revised Pay) Rules, 2008.

After application of the Haryana Civil Services (Revised Pay) Rules, 2008 some categories of existing employees of 'pre-1.1.2006' complained that their pay has been fixed on lower side than that of their juniors who had joined the Government service on or after 1.1.2006. The issue was considered and to address the same, instructions bearing

even No., dated 18.8.2009 were issued, whereby the entry pay of 'post-1.1.2006' direct recruits was reduced and prescribed to be re-fixed from the date of joining, and difference of pay was allowed as Personal Pay to be adjusted and subsumed in future Increments.

The dispensation as prescribed as above, however, attracted host of litigation as a number of CWPs were filed in the Hon'ble High Court by employees of 'pre-1.1.2006' demanding stepping up of pay, especially the element of Personal Pay at par with that of their junior counterparts who had joined the Govt. service on or after 1.1.2006. One of these CWPs No.11254 of 2010-Neelam Rani & others Vs. State of Haryana was allowed by the Hon'ble Punjab & Haryana High Court vide its judgment dated 15-5-2013 and thereafter, a number of similar type of pending CWPs were also allowed in the same terms. However, the State Government challenged the aforesaid judgment in LPA in the Hon'ble High Court but the same was also dismissed. Thereafter, SLP No.15520-21 of 2016-State of Haryana Vs. Neelam Rani filed in the Hon'ble Supreme Court, which was also dismissed on dated 17.10.2016. In the meantime, the CWPs repeatedly got decided in favour of employees and some led to COCPs that were conceded to.

Keeping in view the cumulative position as such, the entire issue was considered in detail and it has now been decided to implement the judgment dated 15-5-2013 in CWP No.11254 of 2010-Neelam Rani Vs. State of Haryana, in all similarly placed cases.

Accordingly, it is, hereby decided that the pay of all existing employees of 'pre-1.1.2006' who are covered under the aforesaid judgment pay of such Government employees (Seniors) appointed before 1.1.2006, may be stepped up, in the shape of personal pay to be subsumed in future increments, at par with their juniors appointed after 1.1.2006 but before 18.8.2009.

It is also directed that this dispensation may be brought to the notice of all the Courts concerned where such issue is still pending for adjudication, so that those may be rendered infructuous.

P.Raghavendra Rao

Addl. Chief Secretary to Govt. Haryana

Finance Department

Endst No. 1/83/2008-2PR (FD) Dated 21st November, 2017”

From the above-said order, it would, thus, be apparent that each and every case would have to be examined by the competent authorities, to find out whether the employee comes within the ambit of discrimination which is alleged. Therefore, the said process cannot be completed before this Court, at the first instance, without the competent authorities, firstly, coming to the conclusion and arriving at a factual aspect whether the petitioners' case fall within the case of discrimination or not. It is, in such circumstances, it would be appropriate that the matter be decided by the competent authorities.

Accordingly, the present writ petitions are disposed of, with a direction to the competent authorities, to take into consideration the above-said decision of the State Government dated 21.11.2017 and process the case of the petitioners on individual basis and pass orders, accordingly, within a period of 4 months from the receipt of a certified copy of this order. It will be open to respondent No.1 to nominate a designated competent authority so that no contradictory orders are passed. Wherever the relief is to be granted, the benefits be paid forthwith, as per the decision of the State Government. In case the

necessary relief is to be denied, speaking order be passed and
communicated to the concerned petitioner(s).

20.12.2017	(G.S. SANDHAWALIA)
Sailesh	JUDGE
Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No