

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20296 of 2014
Date of Decision:-17.01.2017.

Capt. Shailender Hooda and another

.....Petitioners

Versus

The Union of India and others

.....Respondents

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

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Govind Chauhan, Advocate for the petitioners.

None for respondent No.1.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Pawan Sharma, Advocate for respondent Nos.3 to 5.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant case, the petitioners have sought for a writ of *mandamus* directing the respondents to extend the benefit of flying incentive to the post of Assistant Pilot Instructors held by them. Employees of Haryana Institute of Civil Aviation, are not governed by any statutory rules. Perusal of Annexure P-3, it is evident that number of posts in Haryana Institute of Civil Aviation existing and so also existing pay scale and revised pay scale is stated which is executive order. The post of Pilot Instructor and Assistant Pilot Instructor item Nos.3 and 4 reads as under:-

3	Pilot Instructor	Rs.2200-75-2800-EB-100-4000	Rs.15,100-400-18,300 Plus following allowances (i) Rent Free accommodation of Fixed House Rent 3,000/- per month. (ii) Telephone/Mobile Allowance per month Rs.1000/- (iii) Flying Incentive (a) 00 Hrs to 50 Hrs-Nil (b) 51 Hrs. to 100 Hrs @ Rs.300/- per months © 101 Hrs to 125 @ Rs.400/- per hour (Capped at 200 Hrs.)
4	Assistant Pilot Instructor	Rs.2000-60-2300-75-2900-EB-100-3500	Same as Pilot Instructor

2.) The Pilot Instructors are being paid flying incentive so also Chief Flying Instructor Chief Aircraft Engineer (Quality Control Manager) Aircraft Engineers (Senior) (Deputy Quality Control Manager HICA) and Aircraft Engineer (Junior) (Deputy Quality Control Manager of the respective Center HICA) whereas in respect of the post against Assistant Pilot Instructor it is mentioned as “*same as Pilot Instructor*”. In this backdrop, the petitioners were appointed as Assistant Pilot Instructors on 11.8.2009 and they have not been extended the benefit of flying incentive on par with the others in particularly Pilot Instructors, since against the post of Assistant Pilot Instructor it has been mentioned “*same as Pilot Instructor*”. The respondents have not pointed out any provision of law how the Assistant Pilot Instructors are not entitled for flying incentive. On the other hand, under the RTI, the respondents have furnished information stating as follows:-

*“Due to financial crises, the Institute is not
in a position to give even salary to the staff regularly*

how can the incentive be given to Pilots.”

Thus petitioners are entitled for flying incentive.

3.) Learned counsel for the respondents submitted that w.e.f. 23.6.2011 flying incentive to the Chief Instructors has been withdrawn or cancelled. Therefore, the petitioners are not entitled for the claim of flying incentive since from the inception flying incentive was not extended to Assistant Pilot Instructors. Hence, petitioners are not entitled.

4.) Heard learned counsel for the parties.

5.) It is evident from Annexure P-3 that whatever the revised pay and allowances etc., would be on par with the Pilot Instructor to Assistant Pilot Instructor. Undisputedly, Pilot Instructors are being given flying incentives depending upon number of hours per hour and per month maximum at 200 hours. Further the respondents have not produced any material to show that the post of Assistant Pilot Instructors are not entitled for flying incentive. Hence, the respondents are directed to extend the benefit of flying incentives to the petitioners after due calculation from the date of their appointment till date and continue to pay the flying incentive. The above exercise shall be completed by the respondents within a period of four months from today.

6.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

January 17, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.