

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

**CWP No.2682 of 2016**  
**DATE OF DECISION : 19<sup>TH</sup> MARCH, 2018**

**Haryana State Retired Judges Association, Chandigarh**

**.... Petitioner**

**Versus**

**State of Haryana through Chief Secretary,  
Government of Haryana & another**

**.... Respondents**

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI  
HON'BLE MR. JUSTICE INDERJIT SINGH**

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Present : Mr. Sumeet Goel, Advocate and  
Ms. Varsha Gupta, Advocate for the petitioner.

Mr. Vivek Saini, Deputy Advocate General, Haryana.

Mr. K. D. S. Hooda, Advocate for respondent No.2.

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**A. B. CHAUDHARI, J.**

1. By the present petition under Article 226/227 of the Constitution of India, the petitioner-Haryana State Retired Judges Association (in short, the Association), has sought a writ of mandamus against the respondents preventing them from deducting the fixed medical allowance of ₹1,500/- per month from the reimbursement of the medical bills of retired judicial officers/family pensioners.

2. The petitioner is an association of the retired judicial officers of the State of Haryana. The grievance of the petitioner in the present petition is that Justice Shetty Commission had recommended the grant of medical benefits to both serving and retired judicial officers and in accordance with para19.125 the payment of fixed medical allowance in

cash per month, was recommended. The petitioner-Association then submits that on the next revision of pay which fell due on 01.01.2006, the Supreme Court of India had appointed One Man Committee headed by Justice E. Padmanabhan and in para 31(c) of the report it was stated that the fixed medical allowance should be increased to ₹1,500/- per month to retired judicial officers. The Supreme Court accepted the said recommendation vide order dated 02.08.2010 (Annexure P-5) passed in I.A. No.244 in Writ Petition (civil) No.1022 of 1989. Pursuant thereto the respondent issued orders dated 03.05.2006 (Annexure P-2) and 03.11.2011 (Annexure P-6) and accordingly the payment of ₹1,500/- per month, as stated above, was in fact being made. However, in case of one of the judicial officers a communication was issued by the Registrar of this Court to Mr. R. P. Bajaj, District and Sessions Judge (Retired), informing him that fixed medical allowance @ ₹1,500/- per month could not be given and therefore the same was deducted for a period of eight months from the medical bills. This was obviously on the instructions of the Government of Haryana in its finance department.

3. The learned counsel for the petitioner-Association vehemently argued that the said action, on the part of the State of Haryana, is in contradistinction of its orders dated 03.05.2006 (Annexure P-2) and 03.11.2011 (Annexure P-6), besides being in violation of the order made by the Apex Court which accepted the recommendation of Committee of Justice E. Padmanabhan vide order dated 02.08.2010 cited supra. He then submitted that no reason was given for taking such action by the government but now the State of Haryana has disclosed its stand in its written statement filed in this writ petition in which there is a clear

confirmation that the Government of Haryana would not make payment of said fixed medical allowance and therefore the grievance of the petitioner-Association based on the cause of action in respect of the writ petition made in the case of Mr. R. P. Bajaj, District and Sessions Judge (Retired), will have to be redressed. The learned counsel for the petitioner-Association contended that the action of the respondents is unjustified and not according to law and thus prayed for allowing the writ petition.

4. *Per contra*, learned counsel for the High Court submitted that it is for the State of Haryana to give an answer to the relief claimed in the writ petition. The learned counsel for the State of Haryana was heard on 13.03.2018 and was asked to take instructions from the Government of Haryana as to how the deduction could be made in the wake of orders which were issued vide Annexures P-2 and P-6 by this Government itself for payment of fixed medical allowance. Mr. Saini, learned counsel for the State of Haryana submitted that the State wants to rely on the stand taken in the written statement and therefore the petition is being opposed on the same grounds.

5. We have heard learned counsel for the rival parties. We have also perused the entire petition and the documents annexed with the petition. We have carefully gone through the written statement filed by the State of Haryana. We find that the State of Haryana has not disputed the issuance of orders dated 03.05.2006 (Annexure P-2) and 03.11.2011 (Annexure P-6), by it. However, now the stand taken in the written statement is as under:

“1. xxx.... xxx.... xxx....

However, it is pointed out here at the outset, that retired judicial officers are entitled for reimbursement of all medical bills as per “The Haryana Legislative Assembly (Medical Facilities to Members) rules, 1988” (Annexure P-3).

2. That it is submitted that the Govt. of Haryana has issued instructions dated 03/01/2011 (Annexure P-6) in view of the above judgment by the Hon’ble Supreme Court of India in Writ Petition (Civil) No.1022 of 1989 titled as All India Judges Association & others Vs. Union of India, sanctioning various allowances to the Retired Judicial Officers, including Medical Allowance of Rs.1500/- per month. This fixed medical allowance is allowed along with full reimbursement of medical bills as available to the MLAs in Haryana whereas MLAs are not being granted fixed medical allowance per month as is being drawn by the Judicial Officer. xxx....

xxx.... xxx.... xxx.... xxx.... xxx....

3. That it is very pertinent to point here that Members of Legislative Assembly (MLAs) in Haryana State are not given any fixed Medical Allowance. However, in case of judicial officers serving as well as retired, fixed medical allowance on monthly basis is given to them. The medical

facility available to a member of Legislative Assembly in Haryana State is covered by “The Haryana Legislative Assembly (Medical Facilities to Members) Rules, 1988”, as amended in 2013.

xxx.... xxx.... xxx....”

6. Mr. Saini, the learned counsel for the State of Haryana heavily relied on the stand taken by the Government and submitted that the petition deserves to be dismissed.

7. Upon reading of the above specific stand taken by the Government of Haryana, we find that the Government has made a comparison in respect of medical facilities/reimbursement with that of Members of Legislative Assembly. What is stated in para 2 is that since MLAs in Haryana are not being granted any fixed medical allowance per month, the retired judicial officers also cannot be given any such fixed medical allowance and, therefore, according to Government of Haryana there is no merit in the petition.

8. We do not think that the stand taken by the State of Haryana can be countenanced. The reason is that the Government of Haryana has itself issued orders dated 03.05.2006 (Annexure P-2) and 03.11.2011 (Annexure P-6) for granting the medical allowance in the sum of ₹1,500/- to implement the order made by the Apex Court. Those orders still hold the field and have not been rescinded for the simple reason that they were issued in accordance with the Apex Court order dated 02.08.2010 (Annexure P-5) accepting the recommendation of Justice E. Padmanabhan Committee.

9. The comparison made by the State now that since the MLAs in the State of Haryana are not being paid any fixed monthly medical allowance and that, therefore, the retired Judicial Officers also will not be able to get the same, is nothing but a conundrum. Obviously, the Government implemented the Supreme Court's order dated 02.08.2010 (Annexure P- 5). There is absolutely no reason to go tangent and take such a stand. In that view of the matter, we think that the writ of mandamus, as sought, will have to be issued.

10. In the result we make the following order:

**ORDER**

- (i) CWP No.2682 of 2016 is allowed.
- (ii) It is declared that the retired Judicial Officers/family pensioners of the petitioner-Association shall be paid the fixed medical allowance @ ₹1,500/- per month and there shall be no deduction that that effect from the medical reimbursement bills.
- (iii) No orders as to cost.

**(A. B. CHAUDHARI)**  
**JUDGE**

**19<sup>TH</sup> MARCH, 2018**  
*'raj'*

**(INDERJIT SINGH)**  
**JUDGE**

|                                   |            |           |
|-----------------------------------|------------|-----------|
| <i>Whether speaking/reasoned:</i> | <i>Yes</i> | <i>No</i> |
| <i>Whether Reportable:</i>        | <i>Yes</i> | <i>No</i> |