

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

CWP-25758-2018

Date of decision: 06.10.2018

Dr. Deepti Boken

...Petitioner

V/s.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Mohd. Arshad, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking re-fixation of pay by granting her ACP and other benefits under the ACP Rules of 2008.

Learned counsel for the petitioner has referred to the judgment passed by this Court in ***CWP-3922-2011 Narender Pal Singh Arya and another V/s. State of Haryana and others***, decided on 03.10.2016 (Annexure P-4) in which it was held that as per the notification dated 09.04.2010, the grade pay of promotional post was higher than that of ACP pay structure in which the Government employee was drawing his salary prior to promotion, his pay will not be re-fixed and he will only get the difference of pay scale and his date of next increment will continue to be the same as before promotion and it will not be treated as financial upgradation under the Revised Pay Rules of 2008. By the above said notification, the Rule 13 of the Revised Pay Rules of 2008 has been amended wherein one increment equal to 3% of pay in the pay band is to be given. The administrative instructions cannot overrule the statutory rules and cannot take away what has been provided in the said rules. Moreover, while revising the pay of the petitioners, no notice was given to them and the

notification dated 09.04.2010 was held to be illegal and was quashed being contrary to Rules. After passing this judgment, pay fixation was granted to all the petitioners who approached this Court.

The petitioner has made a representation dated 17.11.2017 (Annexure P-5) to the respondents in this regard.

Notice of motion.

Mr. Kiran Pal Singh, Assistant Advocate General, Haryana, accepts notice on behalf of the official respondents.

This petition is being disposed of by giving direction to the respondents to pass speaking order on the representation dated 17.11.2017 (Annexure P-5) after going through the facts of the petition and keeping in view the judgment passed by this Court in ***CWP-3922-2011 Narender Pal Singh Arya and another V/s. State of Haryana and others*** (Annexure P-4) within a period of four months from the date of receipt of certified copy of this order.

06.10.2018

Divyanshi

**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No