

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

(1) CWP-8139-2015  
Date of decision: 1.10.2018

Jagjit Singh and others ...Petitioners

Versus

State of Punjab and others ...Respondents

(2) CWP-14140-2018

Kulbir Pal Singh and others ...Petitioners

Versus

State of Punjab and others ...Respondents

(3) CWP-14027-2018

Kulwant Singh and others ...Petitioners

Versus

State of Punjab and others ...Respondents

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr.Vikas Chatrath, Advocate for the petitioners

Ms.Harsimrat Rai, DAG, Punjab

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**JITENDRA CHAUHAN, J.**

This judgment shall dispose of the abovementioned writ petitions filed under Articles 226/227 of the Constitution of India for issuance of direction to the respondents to extend the benefits of revised House Rent Allowance @ 7.5% of basic pay since population of their respective cities were more than fifty thousand, alongwith all consequential benefits @ 18% per annum.

Learned counsel for the petitioners submit that the case of the petitioners is squarely covered by the ratio of law laid down by this Court in CWP-5741 of 2012 titled as Ajmer Singh and others vs. State of Punjab and others, which has since been even implemented by the State whereby, the similarly placed persons were granted the benefit as prayed for in the present writ petition.

Learned counsel for the respondent(s) does not controvert the assertion raised on behalf of the petitioners.

Heard, learned counsel for the parties and perused the record.

In **Ajmer Singh's case (supra)**, the Court has observed as under:-

Letter dated 9.1.1998, which is the basis for classifying the cities/towns, which was issued in pursuance to the implementation of the recommendations of the 4<sup>th</sup> Pay Commission with regard to the House Rent Allowance reads as follows:-

“I am directed to address you on the subject cited above and to say that in pursuance of the recommendations of the fourth Punjab Pay Commission, the Governor of Punjab is pleased to take the following decisions:-

(i) The revised classification of cities/towns in the State

for the purpose of grant of House Rent Allowance and the admissible rate of House Rent Allowance to Government employees, shall be as under:-

| Classification of cities/towns on population criterion                 | Classification Rate of House Rent | Allowance             |
|------------------------------------------------------------------------|-----------------------------------|-----------------------|
| Cities with population of 20 lakhs and above but less than 50 lakhs    | A                                 | 15% of the basic pay  |
| Cities with population of 10 lakhs and above but less than 20 lakhs    | B-1                               | -do-                  |
| Cities with population of 5 lakhs and above but less than 10 lakhs     | B-2                               | -do-                  |
| Cities/ Town with population of 50,000 and above but less than 5 lakhs | C                                 | 7.5% of the basic pay |
| Towns with population of less than 50,000 and all villages             | Unclassified                      | 5% of the basic pay   |

A perusal of the above would show that a criteria has been laid down for classifying the cities dependent upon the population of the said city/town. The categorization/classification, thus, is dependent upon the population of the city/town for declaring it in a particular class. As per the stand of the respondents, Government of India Census 1991 was initially taken when the notification dated 9.1.1998 was issued for classification of the cities. Census was again held in the year 2001 by the Government of India, according to which population of city Jagraon was 60080 (Annexure P-5). If that be so, city Jagraon which had more than 50000 population w.e.f. 2001 as per census of Government of

India which is to be taken as the basis for counting the population of a city, Jagraon is a class 'C' city entitling the employees of the Government of Punjab including the petitioners, to the HRA at the rate of 7.5% of the basic pay w.e.f. 01.01.2001. The impugned order dated 8.3.2011 (Annexure P-8), thus, cannot sustain and the same stands quashed.”

In the present cases, the petitioners are claiming revised House Rent allowance in terms of Notification dated 9.1.1998 (Annexure P-2 & P-3 respectively), which contemplates grant of house rent allowance @ 7.5 % of the basic pay, since they were working in Tehsil Jagraon, as the population of Jagraon was normally 50,000.

A perusal of the record would reveal that the case of the petitioners is at par with that of one Ajmer Singh's case (supra), which has attained finality in view of the dismissal of LPA No. 536-2015 filed in CWP-5741-2012. Accordingly, the petitioners cannot be deprived of the relief sought. However, the arrears shall be restricted up to 38 months from the date of filing of the petition in view of the ratio of law laid down in **Saroj Kumari Vs. State of Punjab**, 1998(3) SCT 664 wherein it has been observed as under:-

*“9. After hearing learned Counsel for the parties on this point we are of the view that in case where a person invokes the jurisdiction of this Court under Article 226 of the Constitution of India for fixation of his pay under relevant rules/instructions or even on the basis of a judgment of a competent Court, the question of delay and laches would not come in as it would be a case of*

*a continuing wrong and every month the person is paid the salary which according to him is not in accordance with the relevant rules and instructions a fresh cause of action would arise every month. Such a case is not a case of one time action like the case of termination or dismissal from service. As observed by the Apex Court in M. R. Gupta's case (supra) that the Court while granting relief regarding the payment of arrears may apply law of limitation. Since a Civil Suit would be maintainable for realizing arrears of three years and two months, the writ Court would be justified in restricting the payment of arrears to three years and two months prior to the filing of the writ petition.*

*10. We do not agree with the submission of the learned Advocate General, Punjab, that the writ Court should decline the relief to a person who is claiming correct fixation of his pay in accordance with the relevant rules and instructions merely because he has been negligent in approaching the Court. If such a person can file a civil suit for the correct fixation of his pay where he can further claim arrears up to a period of three years and two months prior to the Filing of the civil suit, there is no reason why such relief should be denied by a writ Court. Apart from the above, it may be noticed that in such cases as the present one where only fixation of pay is sought and arrears are claimed, rights of third party do not intervene during the period the person may not have approached the Court. The correct fixation*

*of pay and the payment of arrears do not affect third party's right. This was also so observed by the Division Bench in Rattan Singh's case which has been quoted above, on the basis of which the argument was raised by the learned Advocate General Punjab.*

*11. For the foregoing reasons we are of the view that in cases where only fixation of pay according to the relevant rules/instructions or a judgment is prayed for, the writ petition cannot be dismissed at the threshold on the ground of delay and laches but the payment of arrears can be restricted to a reasonable period. Three years and two months would be considered a reasonable period as that is the period for which a person can ask for the payment of arrears before a Civil Court."*

Accordingly, the writ petition is allowed in terms of Ajmer Singh's case (supra). The respondents are directed to treat the petitioners at par with the petitioners in Ajmer Singh's case and consider the claim of the petitioners in the light of the said case and pass the consequential order within a period of three months from the date of receipt of a certified copy of this judgment.

A photocopy of this order be placed on the files of the connected cases.

1.10.2018  
gsv

**(JITENDRA CHAUHAN)**  
**JUDGE**

**Whether speaking / reasoned?**  
**Whether reportable?**

**Yes / No**  
**Yes / No**