

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-19988-2011 (O&M)
Date of decision:15.07.2019

RAM RATTAN AND ORS

.....Petitioners

V/S

STATE OF HARYANA AND ORS

.....Respondents

2.

CWP-16586-2012

SUBHASH CHANDER AGGARWAL

.....Petitioner

V/S

GJU OF SC & TECH & ORS

.....Respondents

3.

CWP-4293-2015 (O&M)

DEVENDER SACHDEVA AND ORS

.....Petitioners

V/S

STATE OF HARYANA & ORS

.....Respondents

4.

CWP-12624-2015

BRIJ LAL AND ORS

.....Petitioners

V/S

STATE OF HARYANA & ORS

.....Respondents

5.

CWP-18488-2015

MANOJ KUMAR AND ORS

.....Petitioners

V/S

STATE OF HARYANA AND ORS

.....Respondents

6.

CWP-19370-2015

PHOOL KUMAR AND ORS

.....Petitioners

V/S

STATE OF HARYANA & ORS

.....Respondents

7. CWP-20353-2015

MOHINDER SINGH MALIK AND ORSPetitioners

V/S

STATE OF HRY. AND ORSRespondents

8. CWP-21145-2015

RAJINDER SINGH AND ORS.Petitioners

V/S

STATE OF HARYANA AND ORS.Respondents

9. CWP-245-2016

MAHIPAL SINGH & ANRPetitioners

V/S

STATE OF HARYANA & ORSRespondents

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CWP-6833-2016

SAROJ DEVI AND ORSPetitioners

V/S

STATE OF HARYANA & ORSRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajender Singh Malik, Advocate,
for the petitioners in CWP Nos. 19988 of 2015 and 245 of
2016)

Mr. Dinesh Kumar, Advocate,
for the petitioners (in CWP No. 4293 and 12624 of 2015).

Mr. Shyam Singh Chhokar, Advocate,
for the petitioner (in CWP No. 16586 of 2012).

Mr. Rakesh Nagpal, Advocate,
for the petitioners (in CWP No. 21145 of 2015).

Mr. Ramesh Malik, Advocate,
for the petitioner (s) (in CWP Nos. 18488, 19370, 20353 of

2015 and 6833 of 2016).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. B.L. Gupta, Advocate, for respondent no. 4-
Maharshi Dayanand University
(in CWP Nos. 18488, 19370 and 20353 of 2015).

Mr. Anurag Goyal, Advocate,
for respondents no. 3 and 4 (in CWP No. 21145 of 2015).

Ms. Amrita Nagpal, Advocate, for
Mr. Shireesh Gupta, Advocate, for respondents No.2 to 4.

Mr. Tribhuvan Dahiya, Advocate,
for respondents no. 2 to 4 (in CWP No. 245 of 2016).

Mr. Girish Agnihotri, Sr. Advocate with
Mr. Vijay Pal, Advocate, Mr. Arvind Seth, Advocate
and Ms. Swaranjeet Kaur, Advocate,
for the respondent-GJU Hisar.

Mr. A.S. Virk, Advocate,
for respondents-Kurukshetra University
(in CWP Nos. 4293 and 12624 of 2015).

RITU BAHRI, J. (ORAL)

By this order, following petitions are being disposed of:-

- (1) CWP-19988-2011 Ram Rattan and others V/s. State of Haryana and others
- (2) CWP-16586-2012 Subhash Chander Aggarwal V/s. GJU of SC & TECH & others
- (3) CWP-4293-2015 Devender Sachdeva and others V/s. State of Haryana and others
- (4) CWP-12624-2015 Brij Lal and others V/s. State of Haryana and others
- (5) CWP-18488-2015 Manoj Kumar and others V/s. State of Haryana and others

(6) CWP-19370-2015 Phool Kumar and others V/s. State of Haryana and others

(7) CWP-20353-2015 Mohinder Singh Malik and others V/s. State of Haryana and others

(8) CWP-21145-2015 Rajinder Singh and others V/s. State of Haryana and others

(9) CWP-245-2016 Mahipal Singh and another V/s. State of Haryana and others

(10) CWP-6833-2016 Saroj Devi and others V/s. State of Haryana and others

Petitioners are seeking a writ in the nature of certiorari for quashing the impugned order dated 20.03.2013 (Annexure P-7 in CWP-20353-2015) whereby, grade pay of Rs.3200/- w.e.f. 01.01.2006 has been granted after withdrawing the grade pay of Rs.3600/- and order dated 29.09.2014 (Annexure P-10 in CWP-20353-2015) vide which letter dated 05.09.2014 (Annexure P-9 in CWP-20353-2015) granting the revision of Grade Pay from Rs.3200/- to Rs.3600/- to the Assistants working in the State Universities including respondent Maharshi Dayanand University, Rohtak w.e.f. 01.01.2006 has been withdrawn.

The brief facts of the case are that in the year 1987, Government of Haryana had constituted a High Powered Coordination Committee for development and administration of Universities in the State. The said High Powered Coordination Committee comprises Governor of Haryana being Chancellor of all the Universities of the State, Finance Minister, Agriculture Minister, Haryana, Vice Chancellors of all the Universities of the State i.e.

Kurukshetra University, Kurukshetra, Commissioner and Secretary to Government of Haryana, Agriculture Department, Commissioner and Secretary to Government of Haryana, Education Department, Commissioner and Secretary to Government of Haryana, Finance Department and Director Higher Education. The said meeting was held on 28.04.1987 under the Chairmanship of Hon'ble Governor of Haryana and 86 Chancellors of State Universities and in the meeting a conscious decision was taken to equate the pay scales of Non-Teaching Employees of three Universities of the State on the pattern of Haryana Civil Secretariat against item No.3. It was decided in the meeting that Haryana Secretariat Pattern grades be adopted for the non-teaching employees of all the three universities. A copy of this letter dated 14.05.1987 along with the proceedings of the High Powered Coordination Committee are annexed as Annexure P-1 (in CWP-20353-2015).

Thereafter respondent Maharshi Dayanand University, Rohtak considered the Haryana Govt. letter for adoption of Haryana Civil Secretariat pattern for non-teaching employees and took up the matter to its Executive Council being the competent authority in its meeting held on 05.06.1987 and resolved to revise the pay scales of non-teaching employees of the University on the Haryana Civil Secretariat pattern w.e.f. 01.01.1986.

The non teaching employees of the respondent-Maharshi Dayanand University, Rohtak are governed by the Rules known as Rules Governing the Terms and Conditions of Service of the Employees (other than the University Teachers and the Registrar) contained in Maharshi Dayanand University Calender Vol.III and under Chapter III which has been prescribed as under:

“Scales of pay:

15. The scales of pay for the post in the University service shall be as specified from time to time by resolution of the Executive Council.”

Under Section 15(1) of the Maharshi University Act, 1986, the Executive Council shall be the Principal Executive Body of the University and the non-teaching employees of the University. University as per the aforesaid provisions took a conscious decision to equate pay scales of its employees with the employees of Haryana Civil Secretariat. Further Haryana Government vide Act No.14 of 1994 published in Haryana Government Gazette (Extra) on 20.07.1994, incorporated Section 12 A which reads as under:

“12-A Notwithstanding anything contained in this Act, the University shall not create any teaching post and non-teaching post or revise the pay scales of the teaching and non-teaching employees without obtaining the prior approval of the Government.”

As per aforesaid amendment, the University was required to seek prior approval of the State Government in the matter of creation of post and revision of pay scale of teaching as well as non teaching employees. The petitioners have been getting the pay scale at par with the State Government in view of the resolution dated 05.06.1987 passed by the Executive Council and as per notification dated 30.10.1998 (Annexure P-2 in CWP-20353-2015), they were granted 5th Pay Commission. As per Annexure P-2, the Assistants working in the University were granted pay scale of Rs.5000-7850 + 60 Special Pay w.e.f. 01.01.1996, the State Government further revised the pay scale of the University employees from Rs.5000-7850 + 60 SP to

on Haryana Civil Secretariat pattern and the **Finance Department of the State Govt. Vide letter No.3/1/24-PE (FD)/97/SA-II dated 27.04.2000 (forwarded by Director Higher Education, Haryana vide Endst. No.279(G), 18/12-98-UNP (1), dated Chandigarh 03.08.2000) conveyed the grant of pay scale of Rs.5450-8000+60 SP w.e.f. 01.01.1996 to the Assistants working in the State Universities on Haryana Civil Secretariat Pattern (Annexure P-3 Colly.)**

The Executive Council of the State University revised the pay scales of the Assistants working in the University with special pay w.e.f. 01.04.1995 and thereafter w.e.f. 01.01.1996 at par with the Assistants working in the Haryana Civil Secretariat.

A further modification was done by the State Government in the pay scales of Assistants of Haryana Civil Secretariat from Rs.5450-8000+60 SP to Rs.5500-9000 without special pay w.e.f. 01.01.1996 vide notification dated 30.03.2007 (Annexure P-4 in CWP-20353-2015). The University adopted the same pay scale with the approval by the Registrar subject to the condition that notional benefit of pay would be given w.e.f. 01.01.1996 and actual from the date of issue of the Govt. letter i.e. 30.03.2007.

The Universities further revised the pay scale of Private Secretaries and P.A. on the pattern of Haryana Civil Secretariat w.e.f. 01.01.2006. While the existing pay scale in the case of P.A. was revised from Rs.5500-9000 to Rs.6500-10500- with corresponding pay band of Rs.4200/- in the case of Private Secretaries. It was revised from Rs.6500-10500 to Rs.7500-12000 with corresponding grade pay to Rs.4800/- as per letter dated 20.02.2009. On the same pattern it was approved for PA/PS of the University by the Executive Council. The State Government further

vide letter dated 06.01.2010 (Annexure P-6 in CWP-20353-2015) modified the grade pay of the Superintendents, Deputy Superintendents and Assistants and even this modification was implemented by Executive Council on the recommendation of the Committee. The case of the petitioners is that right from 1987 till 2010, the pay scales of non-teaching staff of the University have been revised at par with non-teaching staff working in Haryana Civil Secretariat and after following the due process under the prescribed Maharshi Dayanand University Act 1986 and duly recommended by the Finance Department to Government of Haryana vide letter dated 30.10.1998 (Annexure P-2 in CWP-20353-2015).

The problems started when employees of Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan filed a ***Civil Writ Petition No.19988 of 2011 titled Ram Rattan and others Vs. State of Haryana and others.*** The main plea raised by the employees was that the pay scales of the employees of the University are at par with the employees with the Haryana Civil Secretariat and therefore, they were entitled to the grade pay of Rs.3600/- instead of Rs.3200/- which was being granted to the other Universities including M.D.University. The State Government thereafter, during the pendency of writ petition issued memo vide letter dated 20.03.2013 informing that Finance Department has not granted parity in pay scales of Assistants to any University with Haryana Civil Secretariat and decided to grant the pay scale of Rs.9300-34800 with grade pay of Rs.3200/- w.e.f. 01.01.1996 to the Assistants by withdrawing the grade pay of Rs.3600/-. Thereafter letter dated 05.09.2014 (Annexure P-9 in CWP-18488-2015) has been issued for upgrading the pay of the Assistants working in the State Universities from Rs.3200 to 3600/- w.e.f. 01.01.2006.

Thereafter vide letter dated 29.09.2014 (Annexure P-10 in CWP-18488-2015), the State Government withdrew the letter dated 05.09.2014 (Annexure P-9) whereby revision of grade pay Rs.3200/- to Rs.3600/- has been granted.

Employees of Kurukshetra University had filed the separate writ petition i.e. CWP No.4293 of 2015 which has been clubbed with this petition and other similarly situated employees of the Kurukshetra University have filed separate writ petitions which are being heard together. The petitioners have made the following grounds for quashing of the impugned order dated 20.03.2013 (Annexure P-7 in CWP-20353-2015) and 29.09.2014 (Annexure P-10 in CWP-20353-2015).

- (i) The meeting of the High Powered Coordination Committee was held on 28.04.1987 under the Chairmanship of Hon'ble Governor of Haryana and 86 Chancellors of State Universities and in the meeting a conscious decision was taken to equate the pay scales of Non Teaching Employees of three Universities of the State on the Pattern of Haryana Civil Secretariat. The Finance Department vide notification dated 30.10.1998 (Annexure P-2) had approved the grant of pay scale to the employees of the Universities as notified by the State government to its employees. As such, without there being any change in any circumstances, State Government cannot withdraw the letters dated 05.09.2014 (Annexure P-9 in CWP-20353-2015) and 29.09.2014 (Annexure P-10 in CWP-20353-2015).

- (ii) It is further pleaded that the aforesaid letters dated 05.09.2014 (Annexure P-9 in CWP-20353-2015) and 29.09.2014 (Annexure P-10 in CWP-20353-2015) are made applicable in the case of Universities which were monitored by Director General, Higher Education, Haryana whereas the other Universities such as Haryana Agricultural University, Hisar, CRM University, Murthal, Distt. Sonapat and Guru Jambheshwar University, Hisar which fall under the jurisdiction of Department of Agriculture, Haryana and Department of Technical Education, Haryana were still continuing to pay the Grade pay of Rs.3600/- to the Assistants and no such instructions to withdraw the same and reducing the Grade Pay from Rs.3600/- to Rs.3200/- have been issued to the said Universities by the State of Haryana. The petitioners being the employees of Maharshi Dayanand University and others similarly situated employees of other Universities mentioned in the writ petition have suffered hostile discrimination in the matter of grant of grade pay and as such the action of the State Government cannot be held to be legal and justified.
- (iii) The impugned orders have been passed without issuing notice which is against the principle of natural justice

Learned counsel for the petitioners has referred to the judgments

Ahmed Khan and ors, 2010 (4) RCR (Civil) 600 (SC), State of Haryana Vs. Ramesh Kumar, 2009(2) SCT 145 SC, The State of Punjab Vs. Bakhtawar Singh and others 1972 SLR 85 (SC), S.N.Mukherjee Vs. Union of India, 1990 (5) SLR 8SC (Constitution Bench), MMRDA Officers Association vs. Mumbai Metropolitan Regional Development Authority and another 2005 (2) RSJ 362 SC and Union of India Vs. E.G.Nambudiri, 1991 (2) SLR SC. whereby, it has been held that without giving notice, the benefit of pay scale granted cannot be withdrawn by reviewing the matter subsequently. The Universities and State Government had equated the pay scale of non-teaching staff of the State Universities at par with the employees of Haryana Civil Secretariat w.e.f. 01.01.1996 and further revised the pay scales of the non-teaching staff and other employees of the four Universities who are not covered under UGC w.e.f. 01.01.2006 and in this backdrop, there was no occasion to reduce the grade pay from Rs.3600/- to Rs.3200/-.

The respondents No.4 and 5/university in its written statement (in CWP-18488-2015) has reiterated its stand that as per letter dated 14.05.1987 (Annexure P-1 in CWP-18488-2015), decision taken by the High Powered Co-ordination Committee in its meeting held on 28.04.1987, while considering item No.3 of the agenda with regard to uniformity in pay scales of the non-teaching employees of the three Universities of the State at par with the staff of Haryana Civil Secretariat, was conveyed by the Director Higher Education, Haryana. The said Committee was constituted under the Chairmanship of the Governor of Haryana, who is the also the Chancellor of the University for Development & Administration of the State Universities in Haryana. The Vice Chancellor, in exercise of powers vested in him under

University employees strictly in terms of the decision taken by the High Powered Coordination Committee. The decision taken by the Vice-Chancellor as also the recommendations of the Finance Committee with regard to uncovered categories as contained in item No.7 dated 3rd July, 1987 were duly considered and confirmed by the Executive Council vide resolution No.80 of its meeting held on 22.07.1987, where a Government representative was also present. The same is extracted below for kind perusal of this Hon'ble Court:

- “80. Confirmed the action taken by the Vice-Chancellor under Section 9-A(5) of the University Act and also the recommendations of the Finance Committee made in its meeting held on 3rd July, 1987 vide item No.7 as under:
- i)Revising pay scales of the various categories of the employees of the University as adopted by the Haryana Government for its employees working in the Civil Secretariat w.e.f. 01.01.1986 vide Haryana Government Finance Department Notification No.GSR/39/Const./Art. 309/87, dated 29.04.1987 and subsequent amendments issued thereto from time to time following same pay fixation formula, and also to follow the instructions contained therein, in addition to the above revision of pay scales:
 - ii)Revising pay scales of the categories of posts in whose cases equivalent revised pay scales are not available in the State Government Notification (Annexure-XXX Page-70, already circulated) as recommended by the Finance Committee.
 - iii)Adopting Haryana Government Finance Department letter no.3/1/IPR(FD)-II-87, dated 29.04.1987 regarding freezing of NPA, Special Pay, City Compensatory Allowance, House Rent Allowance, Rural Allowances, Deputation Allowance and T.A/D.A etc. (Copies of

Haryana Government letter No.GSR/39/Const./Art-309/87, dated 29.04.1987 and No.1/3/1/PR (FD)-87, dated 29.04.1987 are placed at Annexures XXXI Page 71-85, already circulated) respectively”

The abovesaid pay scale of Assistants working in the University was brought at par with that of Assistants working in the Haryana Civil Secretariat by placing them in the revised pay scale of Rs.1400-2600 w.e.f. 01.01.1986. Subsequently the State Government on the recommendations of the 5th Pay Commission revised the pay scales of its employees, including those working in the Haryana Civil Secretariat w.e.f. 01.01.1996. Thereupon, the Government after considering the matter regarding revision of pay scale of the non-teaching employees of all the four State Universities with effect from 01.01.1996, issued a detailed notification which was duly conveyed to the Universities by the Financial Commissioner & Secretary to Government vide letter dated 30.10.1998 as per Annexure P-2 annexed with the writ petition and adopted by the Executive Council of the respondent-University vide resolution No.3, dated 09.07.1999 a copy of which has been appended hereto as Annexure R-4/2 in CWP-18488-2015. As a result, the existing pay scale of Rs.1400-2600+60 SP of Assistants was revised to Rs.5000-7850+60 as Special pay w.e.f. 01.01.1996 and then again to 5450-8000+60 as special pay both for present and future entrants/appointments, as was admissible to their counterparts in the Haryana Civil Secretariat. Thereafter, the State Government upon reconsidering the matter regarding further modification of the conditions of entitlement/eligibility to the revised pay structure for the categories of Superintendents/Deputy Superintendents/Assistants and Clerks in the ministerial cadre in Governor

House, Haryana, Vidhan Sabha, Haryana, Haryana Civil Secretariat, Establishment of the offices of Financial Commissioner & Principal Secretary to Government, Haryana, Revenue Department, Haryana, Legal Remembrancer, Haryana and Haryana Public Service Commission, vide its order dated 06.01.2010 further decided to modify the same as under:

i) Superintendents	Rs.9300-34,800 +4800 GP
ii) Deputy Superintendents	Rs.9300-34800 + 4200 GP
iii) Assistants Grade-II	Rs.9300-34800 + 3600 GP
iv) Assistants Grade-I	Rs.9300-34800 + 4000 GP

The Executive Council of respondent-University, vide its resolution No.20 dated 28.03.2012 , adopted the above modified pay scales on the same terms and conditions on the pattern of sister Universities i.e. Kurukshetra University, Kurukshetra and Guru Jambheshwar University of Science & Technology, Hisar w.e.f. 01.07.2010. The copies of letter dated 6th January, 2010 issued by the Haryana Government as also Executive Council are appended Annexure R-4/3 (in CWP-18488-2015) and Annexure R-4/4 (in CWP-18488-2015) respectively. However, the same are yet to be implemented for want of clearance from the Local Audit of the respondent-University. In the meantime, the Haryana Government, vide its letter dated 20.03.2013 (Annexure P-7 in CWP-20353-2015)) decided to downgrade the pay band of the post of Assistants from Rs.9300-34800+3600 Grade Pay to Rs.9300-34800+3200 Grade Pay in disregard of its earlier decision to grant the modified pay scale to the Assistants working in the State Universities on the pattern of Haryana Civil Secretariat and to re-fix their pay accordingly. Since the revised decision of the Haryana Government was bound to cause large scale resentment amongst the University employees in general and Assistants working in the State Universities, in particular, the respondent-

University, vide its letters dated 17.04.2013 and 17.06.2013 (Annexure R-4/5 Colly. in CWP-18488-2015) while explaining the background in which the pay scale of Assistants working in the respondent-University was brought at par with its counterparts working in the Haryana Civil Secretariat, was requested to rescind its decision and restore parity. It may further be pertinent to mention here that it was perhaps in this background that the Director, Higher Education, Haryana, vide his letter dated 05.09.2014, at one stage, informed that the State Government had decided to upgrade the grade pay of Assistants working in the State Government at par with the Assistants working in the State Universities from Rs.3200/- to Rs.3600/- w.e.f. 01.01.2006. However, this communication was subsequently withdrawn by the State Government vide its letter dated 29.09.2014 (Annexure P-10 in CWP-20353-2015) without assigning any reason, which are under challenge in this writ petition. Thereupon, the matter was again taken up by the Vice-Chancellor with the State Government vide his letter dated 20.01.2015 as desired by the Executive Council at its meeting held on 22.12.2014 seeking early resolution of the problem by holding a joint meeting with the vice Chancellors of the State Universities and Principal Secretaries of Finance and Education of the Haryana Government. However, the State Government instead of responding to the communications/proposal of the respondent-University with regard to restoration of parity in the matter of grant of Grade Pay of Rs.3600/- to Assistants working in the Universities with that of Assistants in the Haryana Civil Secretariat, directed the respondent-University to intimate whether its decision regarding down gradation of Grade Pay of Assistants from

the Haryana Government that the respondent-University was left with no option, but to implement the revised decision of State Government vide resolution no.1(68) of the meeting of the Executive Council held on 04.03.2015 and proceeded to re-fix the pay of affected employees, including the present petitioners, in the Grade Pay of Rs.3200/-, which is under challenge in this and similar writ petitions pending before this Court.

Initially respondents No.1 to 3 & 6 have filed a separate written statement dated 01.12.2016 stating therein that Kurukshetra University, Kurukshetra had sent a proposal to the State Government for revising the pay scale of Assistants and Senior Scale Stenographer at par with Haryana Civil Secretariat from Rs.1400-2600+60 S.P. to Rs.1600-2660+Rs.60/- S.P. w.e.f. 01.04.1995 as the University follows the pattern of Civil Secretariat in case of pay scale of non-teaching staff and even the University Executive Council vide its resolution No.54 dated 10.01.1997 approved the grant of revised pay scale of Rs.1600-2660 +Rs.60 S.P. to Assistants and Senior Scale Stenographer working in Kurukshetra University, Kurukshetra, without the approval of the State Government. The pay scale of Assistant and Senior Scale Stenographer were further revised to Rs.5450-8000 +Rs.60/- S.P. w.e.f. 01.01.1996. While revising the pay scale of Assistants and Senior Scale Stenographer, the University had taken the plea that CCSHAU, Hisar has also revised the pay scale of Assistant and Senior scale Stenographer w.e.f. 01.04.1995. Accordingly, the University has sought ex-post-facto approval of the State Government for revision of pay scale of Assistant and Senior Scale Stenographer from Rs. 1400-2600+60 S.P. to 1600-2660+Rs.60 S.P. w.e.f. 01.04.1995 & further revision to Rs.5450-8000+ Rs.60 w.e.f. 01.04.1995. Thereafter, the Finance Department vide

letter dated 30.10.1998, further issued instructions w.r.t. the revision of pay scales of non-teaching staff of all four Universities wherein, it was categorically mentioned that “The Committee was also of the view that the Assistants in the State universities be recommended the replacement of the scale as given to the Haryana Secretariat employees...” with further directions that the Education Department would look into the matter keeping in view the service rules, cadre management of all the four universities and put up concrete proposal to the Pay Revision Committee for its reconsideration. Accordingly, the said instructions were circulated to all the Universities for taking further necessary actions. However, a consolidated proposal of any University was never received in the Education Department. In this way, no final decision with regard to pay scale of Assistants of all four Universities could be taken at that time by the State Government.

In the absence of any proposal, the Universities, at their own level, revised the pay scale of the Assistants working in all the Universities, in violation of the directions given to the Pay Revision Committee. That matter with regard to ex-post facto approval of the Finance Department was taken up by the Education Department. However, the Finance Department did not allow pay parity of Assistants working in the State Universities at par with the Assistants of Haryana Civil Secretariat. Vide letter dated 30.03.2007, the Finance Department observed that demand of pay scale, equal to Haryana Civil Secretariat Employees is not justified as per letter dated 30.03.2007 only the following Departments have been granted parity with the Haryana Civil Secretariat:-

1. FCR Office.
2. LR Office.
3. Haryana Vidhan Sabha

4. HPSC
5. Haryana Raj Bhawan

The above instructions clearly reveal that the Finance Department has not granted parity to any University with the Haryana Civil Secretariat employees.

It is further stated that as per provisions of MDU Act, KUK Act, CDLU Act and BPSMV Act, pay scale of the teaching and non-teaching posts cannot be revised without obtaining the prior approval of the Government. It is further submitted that the approval of the Finance Department is mandatory under the provisions of Rule 18 of Punjab Financial Rules and 31 of Rule of Business which had been reproduced in para 3 of preliminary submissions.

In para 7 of the written statement, it has been further explained that Finance Department vide letter No.UO.No.60/7/2FDII/09/569 dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015), allowed only replacement scales to the Assistants working in Universities w.e.f. 01.01.2006 and as per decision of State Government the Assistants working in all State Universities were entitled to the pre revised pay scale of Rs.5000-7850. Accordingly, the replacement scale was PB-2 i.e. Rs.9300-34800+Grade Pay 3200. The abovesaid letter dated 27.02.2009 alongwith Annexure vide office letter dated 8.4.2009 was forwarded to the following:

1. Registrar, Kurukshetra University, Kurukshetra.
2. Registrar, Maharshi Dayanand University, Rohtak.
3. Registrar, Chaudhary Devi Lal University, Sirsa.
- 4, Registrar, Bhagat Phool Singh Mahila Vishwavidyalaya, Khanpur Kalan (Sonapat.)

The said letter was forwarded to revision of pay scales of various non-teaching employees of the University in accordance with instructions issued by the Finance Department and the condition imposed therein must be followed and further as per para (vi) of the letter **“The Universities will submit proposals for restructuring and rationalization of their staff within 45 days to the Government.”** It is further stated that as per advice of the Finance Department, all the Universities had been informed vide letter dated 20.03.2013 that the State Govt. has decided to grant the pay scale of Rs.9300-34800 with Grade pay of Rs.3200/- from 01.01.2006 to the Assistants of the Universities and requested to grant the above pay scales and re-fix the pay of Assistants of the Universities. Thereafter, an anomaly commission was constituted with an object to remove anomalies, if any. In some cases there was a demand of further revision which was accepted by the State of Haryana from time to time keeping in view the facts and circumstances of the respective cases. A decision was taken by the State Government vide notification dated 23.08.2014 to further revise/modify the pay scales which were reproduced in preceding paras of preliminary submissions. The said decision was applicable w.e.f. 01.09.2014. Whereas, extending this up-gradation in grade pay to Assistants of all State universities of State of Haryana, the said up-gradation of the grade pay was erroneously allowed w.e.f. 01.01.2006 instead of 01.09.2014 without seeking any concurrence of the Finance Department and in this backdrop the notification/order dated 23.08.2014 was erroneous as the said decision was applicable w.e.f. 01.09.2014, whereas the said benefit has been wrongly allowed to Assistants working in different State Universities of State of Haryana w.e.f. 01.01.2006.

Before this Court on 23.02.2017, additional affidavit dated 17.02.2017 was filed by Rajesh Kumar, Deputy Secretary to Govt. Haryana, Higher Education Department (in CWP-19988-2011). In this affidavit, it has been explained that Kurukshetra University took a decision on its own through its Executive Council in a meeting held on 05.06.1987 and adopted the revised pay scales of the non-teaching staff on Haryana Civil Secretariat pattern. Thereafter in the year 1995 the University took a decision on its own level for providing pay parity at par with the employees of the Haryana Civil Secretariat w.e.f. 01.04.1995 without seeking prior approval of the State Government. As per amended Section 12-A of the Kurukshetra University Act, 1956, the revision of the pay scales of the non-teaching staff cannot be done without obtaining prior approval of the Government. The same provision governs revision of pay scales with respect to other State universities. The approval of the Finance Department is mandatory under the provision of Rule 18 of Punjab Financial Rules and Rule 31 of Business.

The University thereafter sought ex-post facto approval of the State Govt. for revision of the pay scales of Assistant and Senior Scale Stenographer from Rs. 1400-2600+60 S.P. to Rs. 1600-2660+Rs.60 S.P. w.e.f. 01.04.1995 and further revision of Rs.5450-8000+Rs. 60 S.P. w.e.f. 01.01.1996. The Finance Department vide letter dated 30.10.1998 (Annexure P-3 of CWP-4293-2015) issued instructions to all the four Universities that Education Department would look into the matter and grant parity of pay scales of non-teaching staff with the Haryana Civil Secretariat employees. Since no consolidated proposal of any university was received, the same could not be forwarded to Finance Department and no final decision was taken by the Finance Department at that time by the State

Government and the Universities at their own level, without approval of the Finance Department revised the pay scales of the non-teaching staff at par with the Haryana Civil Secretariat. The ex-post facto approval was received and considered by the Financial Commissioner Education in its meeting held on 21.04.2000 and vide letter dated 27.04.2000 (Annexure A-I), the recommendations were sent by Management Consultant, for Member Secretary, Pay Revision Committee. Thereafter as per the communication received from the Finance Department (Annexure R-II to R-IV in CWP-4293-2015), the Finance Department did not allow pay parity of Assistants working with the State Universities at par with the Haryana Civil Secretariat and the Finance Department referred to the FD letter dated 14.07.1995 (Annexure R-II to R-IV in CWP-4293-2015) and observed that the demand of pay scale, equal to Haryana Civil Secretariat Employees was not justified and finally it has been stated that the Universities had flouted the provisions of the Acts and implemented the pay scales at their own level and had not taken prior approval of the Finance Department. It has further been clarified that the Finance Department vide letter dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015) allowed only replacement of pay scale of Assistants working with the Universities w.e.f. 01.01.2006. The Assistants working in the Universities were entitled to pre revised pay scale of Rs.5000-7850 and accordingly the replacement scale was PB-2 i.e. Rs.9300-34800+Grade Pay 3200 and the letter dated 27.02.2009 was forwarded to the Universities vide letter dated 08.04.2009 (Annexure R-V in CWP-4293-2015) to the Registrars of Kurukshetra University, Maharshi Dayanand University, Chaudhary Devi Lal University and Bhagat Phool Singh Mahila Vishwavidyalaya. It is further submitted that vide letter dated 20.03.2013

(Annexure P-15 of CWP No. 4293 of 2015) the State Government had decided to grant pay scale of Rs. 9300-34800 with grade pay of Rs. 3200 from 01.01.2006 and notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015) was to be made effective from 01.09.2014 and the Universities had wrongly given the said benefit to the Assistants working in different State Universities w.e.f. 01.01.2006 instead of 01.09.2014 and in this backdrop, letter dated 19.09.2014 (Annexure R-VI in CWP-4293-2015) was received from the Additional Chief Secretary to Govt. of Haryana, Finance Department to revise the various grade pays strictly in accordance with the order of the Finance Department dated 28.08.2014 and thereafter necessary steps were taken and letter dated 29.09.2014 was issued.

In response to affidavit dated 17.02.2017, reply has been filed by the petitioners on 05.05.2017 alongwith Annexures P-22 to P-23 in CWP-4293-2015. The petitioners have made reference to the Act and statutes of the Universities and it is submitted that the Finance Committee includes representatives of Finance Department and Education Department and the Finance Committee approved granting of pay scale of Rs.9300-34800+Rs.3600/- Grade Pay to the Assistants working in the University which is deemed to have been approved by the Government and thus now the Government cannot turn around to say that the University did not get the approval of the Government while granting said pay scale to the Assistants of the Universities.

When the matter came up for hearing on 26.07.2017, directions were given to the Additional Chief Secretary to Govt. of Haryana, Department of Education to file an affidavit, giving the reasons for

discrimination of grade pay payable to Assistants of the Bhagat Phool Singh

Mahila Vishwavidyalaya Khanpur Kalan, Sonapat and the other Universities in the State of Haryana and further explainaing as to why the grade pay granted to the Assistants of the Kurukshetra University and Maharshi Dayanand University, Rohtak is being withdrawn despite sanction granted by the Finance Department vide letter dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015) and that too without any notice of recovery having been issued. In compliance of the above said order, an affidavit of Jyoti Arora, Principal Secretary to Govt. of Haryana, Higher Education Department, Chandigarh dated 30.01.2018 has been filed in CWP No. 19988 of 2011. In para No. 2 of the said affidavit, an explanation has been given that a meeting of High Powered Co-ordination Committee presided over by the then Governor/Chancellor was held on 28.04.1987, which was also attended by the then Finance Minister, Financial Commissioner, Finance Department alongwith other officers of the State Government and it was resolved vide agenda item No. 3 to grant the pay parity to the employees of the State Universities at par with the employees of Haryana Civil Secreratiat. However, only the minutes of the meeting were circulated and no notification was ever issued. It is admitted that provisionally it was decided to maintain the pay parity to the employees of the State Universities at par with the employees of Haryana Civil Secretariat but approval of Finance Department was mandatory. The Kurukshetra University Kurukshetra vide resolution No. 86 dated 05.06.1987 of Executive Council approved the grant of revised pay scale to the non-teaching employees of the University on Haryana Civil Secretariat pattern w.e.f. 01.01.1986 without obtaining approval of the State Government. Accordingly, Kurukshetra University

w.e.f. 01.01.1986 to the Assistants on Haryana Civil Secretariat pattern, and at that stage, the pay scale of Assistants in other Govt. departments and other Universities was in the pay scale of Rs.1400-2600. The Kurukshetra University as well as the Maharshi Dayanand University, further revised the pay scale of their employees from Rs.1400-2600+60 SP to Rs.1600-2660+60 SP w.e.f. 01.04.1995 on the pattern of Haryana Civil Secretariat and this revision was done without taking approval from the Government. At this stage, it is being explained in the affidavit that the pay scale of Assistants in the Haryana Civil Secretariat was upgraded from 1400-2600 to Rs.1600-2660 and further revised to Rs.1640-2900. These pay scales were further revised to Rs.5450-8000 and Rs.5500-9000 respectively w.e.f. 01.01.1996. Thereafter this pay scale was again revised from Rs.5500-9000 to Rs.9300-34800+3600 Grade Pay w.e.f. 01.01.2006 vide State Government notification dated 30.12.2008. This pay scale was applicable only in five offices of the State Government i.e. Financial Commissioner Revenue office, Legal Remembrancer office, Haryana Vidhan Sabha, Haryana Public Service Commission and Haryana Raj Bhawan and this scale was not admissible to the employees of other Government offices of Haryana State as well as the State Universities. It is further explained that vide notification dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015) Govt. of Haryana granted replacement pay scale to the Assistants of BPSMV, Khanpur Kalan and Chaudhary Devi Lal University, Sirsa which is as under:-

Pre-revised pay scale	Replacement pay scale	w.e.f.
5450-150-6950-EB-150-8000	9300-34800+3200 GP	01.01.2006
5500-175-8300-EB-175-9000	9300-34800+3600 GP	01.01.2006

However, in the case of Kurukshetra University and Maharshi Dayanand University, Rohtak, Grade Pay was Rs.3600. At this stage, an anomaly arose. The Finance Department vide letter dated 30.01.2013 advised that the Finance Department has not granted parity to Assistants of any University with the Assistants working in Haryana Civil Secretariat and five other departments, as stated above. The matter was examined thoroughly and the grade pay of Assistants working in all the State Universities was reduced from Rs.3600/- to Rs.3200/- to maintain parity and all the State Universities were conveyed vide letter dated 20.03.2013. In para 7 of this affidavit, it is further stated that vide notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015), the Finance Department brought parity of pay scale to all Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014 to avoid any discrimination in the pay scales of the Assistants working in all departments of the State Government and finally it has been explained that grade pay of Rs.3200/- and Rs.3600/- was granted by the Finance Department w.e.f. 01.01.2006 to the Assistants of the State Universities as per their functional pay scales held on 31.12.2005.

After hearing learned counsel for the parties and going through the contents of the writ petitions, affidavits filed by the Departments as well as the reply filed by the petitioners, these writ petitions deserve to be allowed on the following grounds:-

In the affidavit dated 30.01.2018, the Finance Department had brought parity of pay scale to all Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014.

Further at the same time, the Kurukshetra University vide its resolution No. 54 dated 10.01.1997 had granted the pay scale of Rs. 1600-2600 and the Maharshi Dayanand University, Rohtak vide its resolution No. 32 dated 22.08.2001 also revised the pay scale of their employees from Rs.1400-2600+60 SP to Rs.1600-2660+60 SP w.e.f. 01.04.1995 on the pattern of Haryana Civil Secretariat. It is admitted by the respondents that a meeting of High Powered Co-ordination Committee presided over by the then Governor Chancellor was held on 28.04.1987, which was also attended by the then Finance Minister, Financial Commissioner, Finance Department alongwith other officers of the State Government and it was resolved vide agenda item No. 3 to grant the pay parity to the employees of the State Universities at par with the employees of Haryana Civil Secretariat.

However an attempt has been made to justify reduction of grade pay from Rs.3600/- to 3200/- (wrongly typed as 3300 in the affidavit) in para 5 of this affidavit. The Finance Department vide its notification dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015) granted replacement pay scale as stated above to the Assistants of BPSMV, Khanpur Kalan and Chaudhary Devi Lal University, Sirsa. In the case of the Kurukshetra University and Maharshi Dayanand University, since 1987, their employees are getting parity of pay scale with the employees of Haryana Civil Secretariat and even the Finance Department vide notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015) brought parity of pay scale to all Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014. The decision of the Finance Department to grant separate pay scale to the five departments of the State

notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015). In the case of employees working in the Universities, a decision had already been taken to give parity at par with the employees of Haryana Civil Secretariat vide agenda item No. 3 of High Powered Co-ordination Committee meeting and this decision was implemented by the Universities in terms of revision of pay scale w.e.f. 01.04.1995 and thereafter w.e.f. 01.01.2006.

The decision of the Finance Department dated 30.01.2013, that the Finance Department has not granted parity to Assistants of any University with the Assistants working in Haryana Civil Secretariat cannot be made a ground to effect recovery by reducing the grade pay from Rs.3600/- to Rs.3200/- vide impugned orders dated 20.03.2013 (Annexure P-7 in CWP-20353-2015) and 29.09.2014 (Annexure P-10 in CWP-20353-2015).

Once the Finance Department vide notification dated 23.08.2014 brought parity of pay scale to all Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014, the grade pay of Rs.3600/- cannot be reduced to Rs.3200/- and no recovery can be effected vide the impugned orders. The decision of effecting recovery has been taken without giving any notice to the employees. Even on the principle of natural justice, the impugned orders are liable to be set aside. The Division Bench of this Court in ***LPA No. 43 of 1969 titled as The General Manager, Northern Railway, Baorda House, New Delhi and another V/s. Madan Lal Chopra, Luggage Guard, Northern Railway and others, 1971(1) SLR 629*** while examining the case of withdrawal of higher pay, has held that once the Authority has granted benefit of higher pay scale, subsequently the Authority cannot review the matter in the absence of any Rules without giving any opportunity of hearing to the effected employees.

In para 7, it has been observed as under:-

“7. As regards the argument of the learned counsel for the appellants that in accordance with Section 7 of the Payment of Wages Act, the appellants are entitled to make adjustments of over-payments of wages, the same appears to be without any force. This was in fact not a case of over-payment of wages. In this case respondents were held to be entitled to a particular grade. It is not a case where the over-payment of wages was made by mistake in accordance with a particular grade which the employee held, but on the other hand, by holding that the respondents were entitled to benefit of the President's order referred to in the earlier part of the judgment they were given a particular grade and if that grade is kept in view, it cannot be said that any over-payment of wages was made to the respondents. In this view of the matter, in our opinion, the learned Single Judge rightly came to the conclusion that the provisions of Section 7 of the Payment of Wages Act, will not entitle the appellants to recover the amount which has been paid to the respondents on a particular grade having been given to them.”

In the present case vide notification dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015), the State of Haryana had granted replacement pay scale to the Assistants of BPSMV, Khanpur Kalan and Chaudhary Devi Lal University, Sirsa with grade pay of Rs.3600/-. In the case of Kurukshetra University and Maharshi Dayanand University, their employees are getting parity of pay scale with the employees of Haryana Civil Secretariat since 1987 and even the Finance Department vide notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015) brought parity of pay scale to all Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014. Since the Universities have been getting parity of pay scale at par with the Assistants

in the the State since 1987, as per the Supreme Court judgment of ***Yogeshwar Prasad and others V/s. National Institute, Education Planning and Administration and others*** 2010(4) S.C.T. 637, the petitioners being employees of the Universities, have a right to claim parity of pay scale at par with the employees of the State Government. The issue before the Supreme Court in the above said judgment was with respect to employees of the autonomous body. The Supreme Court allowed the appeal filed by the employees of the National Institute, Education Planning and Administration, against the judgment of Delhi High Court wherein it has been held that the revised pay scale of Rs.1640-2900 was not payable to the Assistants and Stenographers working in the autonomous organization/statutory bodies like Sahitya Academy. The Supreme Court held that benefit of revised pay scales had already been received by the employees and they were held justified in getting the above said scale. However, any additional amount could not be recovered from them as this amount had not been given to them on account of any misrepresentation or fraud.

In the present case, the State had granted benefit of pay scales as per notification dated 27.02.2009 (Annexure P-11 of CWP No. 4293 of 2015) at par with the Assistants of the State Government and since 1987, the employees of Kurukshetra University and Maharshi Dayanand University are getting parity of pay scale with the employees of Haryana Civil Secretariat and further the Finance Department vide notification dated 23.08.2014 (Annexure R-VI in CWP-4293-2015) brought parity of pay scale to all the Assistants working in the State to grant pay scale of Rs.9300-34800 with grade pay of Rs.3600/- w.e.f. 01.09.2014. Hence as on today,

granted parity of pay scales. Moreover, the petitioners are entitled to the fixation of salary with grade pay of Rs.3600/- which is now at par with the Assistants working in the State of Haryana.

Keeping in view the reasons stated above, writ petitions are allowed and impugned orders dated 20.03.2013, 05.09.2014 and 29.09.2014 (Annexures P-7, P-9 and P-10 in CWP-20353-2015) are quashed.

Pending application (if any), also stands disposed of.

15.07.2019		(RITU BAHRI)
Divyanshi		JUDGE
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No