

CWP No.21969 of 2017 (O&M)
CWP No.25872 of 2017
CWP No.18997 of 2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.21969 of 2017 (O&M)

Sunil Kumar Nehra and others ... Petitioners

Versus

State of Haryana and another ... Respondents

2. CWP No.25872 of 2017

Rattan Sidhu Brar and another ... Petitioners

Versus

State of Haryana and another ... Respondents

3. CWP No.18997 of 2018 (O&M)

Deepak Jindal and others ... Petitioners

Versus

State of Haryana and another ... Respondents

Date of Decision: 08.03.2019

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.S. Patter, Advocate,
for the petitioners.

Mr. Baldev Raj Mahajan, Advocate General, Haryana,
with Mr. Hitesh Pandit, Addl. AG, Haryana,
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. This order disposes of CWP No.21969 of 2017, *Sunil Kumar Nehra and others v. State of Haryana and another*, CWP No.25872 of 2017, *Rattan Sidhu Brar and another v. State of Haryana and another* & CWP No.18997 of 2018, *Deepak Jindal and others v. State of Haryana and*

another.

2. The petitioners are former Law Officers of the State of Haryana in the rank of Deputy Advocate General and Senior Deputy Advocate General in the office of the Advocate General, Haryana. They were drawing salaries during service in the running pay scales admissible to them till their services were terminated. It is not found necessary to go into any detail of their appointments and departure from office.

3. They have approached this Court seeking a writ of mandamus directing the respondents to pay them and other similarly situated Law Officers who are no longer in service the revised pay in the Pay Band IV with initial start of ₹43390+10000 GP i.e. ₹53390 as per the fitment Table annexed with the Haryana Civil Services (Revised Pay) Rules, 2008.

4. The petitioners rely on the ratio of the judgment of this Court rendered in CWP No.2426 of 2012, titled *Madan Gopal Gupta and another v. State of Haryana and others* decided on July 07, 2014. In that case, the Law Officers had approached this Court for fixation of their pay w.e.f. January 01, 2006 as they were appointed as Senior DAGs and DAGs in May 2005 and some thereafter though on contract basis. Nevertheless, while their appointments were contractual in nature, as said before, they were granted running pay scales and, accordingly, this Court in *Madan Gopal Gupta* found no merit in the contention of the State while trying to distinguish the case on the basis of temporary employment of their counterparts and to treat the two types differently in the matter of pay and allowances. LPA No.1758 of 2014 filed by the State against the judgment and order of the single bench

was dismissed on November 11, 2014 (P-5). The State did not carry SLP to the Supreme Court and those orders have attained finality.

5. Mr. B.R.Mahajan, the learned Advocate General, Haryana tries to draw a distinction between *Madan Gopal Gupta's* case from this case and in this behalf urges that in the present case some of the former Law Officers were appointed after January 01, 2006 on fresh terms and conditions carrying specific pay scale and, therefore, they would not be entitled to the revision of pay.

6. I have considered this argument but find it difficult to accept as it would cause and result in invidious and unfair discrimination between a homogeneous class of Law Officers working in the same office i.e. the office of the Advocate General, Haryana, albeit, on contract basis. It is the constitutional duty of this Court to remove unfair discrimination among equals wherever practiced or whenever discovered to prevent breach of Article 14 of the Constitution.

7. Accordingly and for what has been said before, all actions of the respondents withholding accruals of pay revision are declared unlawful and as a result these petitions are allowed. A writ of mandamus is issued to the State to grant the petitioners and other similarly situated non-petitioning ex Law Officers, the arrears of revised pay scales for the duration of their service rendered from the dates of their appointment. The amounts in arrears becoming due to the petitioners and others in the same group upon declaration of their rights to claim moneys be calculated and paid to them by the respondent State within three months from the date of receipt of a

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certified copy of this order. There will be no order as to costs. The amounts so determined shall not bear any interest unless not paid up within the time fixed for performance. In default of payment, the amounts in default will carry interest at the rate of 10% per annum till realisation.

08.03.2019
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No