

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

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LPA-132-2021 (O&M)

Decided on : 27.05.2022

State of Haryana and others

.....Appellants

Versus

Sandeep and others

.....Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Hitesh Pandit, Addl.A.G., Haryana
for the appellants.

Mr. Sunil Hooda, Advocate for
Mr. Samrat Malik, Advocate for the respondents.

G.S. Sandhawalia, J. (Oral)

CM-311-LPA-2021

Application for condonation of delay of 357 days in filing the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the official.

CM stands disposed of.

LPA-132-2021 (O&M)

Challenge by the State in the present letters patent appeal is to the order dated 20.02.2019 passed by the learned Single Judge in CWP-15553-2018, wherein the benefit of minimum pay scale was held payable to the writ petitioners, in view of the judgment of the Apex Court dated 26.10.2016 passed in '**State of Punjab & others Vs. Jagjit Singh & others**' 2016 (4) SCT 641. Learned Single Judge also granted the benefit of arrears for 38 months as per the details given in para no.2 of the writ petition except writ petitioner no.28, on the ground that they were working since long.

Review against the said order had also been filed, which was dismissed on 24.07.2020, which is also impugned in the present appeal.

Counsel for the State has submitted that the writ petitioners except writ petitioner no.28 were working from various period ranging from the year 2012 till the year 2014 and the writ petitioner no.28 was employed in 2018 after passing the judgment in the case of Jagjit Singh (supra). It is, thus, submitted that the benefit of arrears of 38 months in effect had been given to the employees for the period before the law was laid down by the Apex Court on 26.10.2016, which is not permissible. It is further pointed out that the State had issued instructions on 03.11.2017 whereby the benefit was to be granted w.e.f. 01.11.2017 keeping in view the law laid down by the Apex Court and necessary instructions have been issued to one and all.

It is, thus, submitted that the cut-off-date was not prescribed and, therefore, same was applicable to each one in the State of Haryana. It is submitted that even the representations of the Employees' Association dated 28.04.2018 (Annexure P-4) which was relied upon in the writ petition was to the same extent that the payment be made as per instructions which had not been implemented. It is, thus, submitted that the defence before the learned Single Judge was also to the extent that the necessary sanction had been granted for Group-C & D employees as per the instructions of the Government w.e.f 01.11.2017. It is further submitted that it would be having huge financial implications and, therefore, the cut-off-date which has been prescribed would be binding upon all the departments. Rather it would clarify that the payment should be made from a specific date, rather than giving the benefit for the arrears for different periods and even otherwise for the period prior to the judgment of the Apex Court the benefit of arrears could not be granted, since the law was declared by the Apex Court on a particular date

and would come into force thereafter.

It is further pointed out that in similar circumstances this Court had dismissed **LPA No.1598 of 2019 'State of Haryana and another Vs. Varun Gupta'** on 15.03.2022 on the same ground that the State was bound by its own Instructions dated 03.11.2017 and rather in **LPA No.674 of 2021 'State of Haryana and another Vs. Nitesh Sharma'** it was modified to the extent that the said instructions were applicable from a specific date and payment was liable from the said date.

It is to be noticed that the writ petitioners have not challenged the cut-off-date and, therefore, the claim was on the basis of the instructions. The learned Single Judge having gone beyond the claim, we feel that the judgment has to be set aside and modified to that extent.

Counsel for the respondents has submitted that in the review order dated 24.07.2020 the learned Single Judge has relied upon the judgment dated 17.05.2018 passed in **CWP No.27199 of 2015 'Satish Kumar and others Vs. State of Haryana and others'**, whereby similar relief had been given to the employees of BPS Government Medical College for Women. It was also noticed in the review that the review filed against that order had also been dismissed and, therefore, submitted that the benefit had been granted to similarly situated set of persons.

We are of the considered opinion that if certain set of persons had been granted the benefit on account of the State having not preferred any appeal against the said order, since it had only been filed LPA against one employee of a different Institute, would not debar the State to challenge the order of the learned Single Judge, once the relief had been granted prior to the

period of the pronouncement of the order of the Apex Court on 26.10.2016.

In such circumstances, we are of the considered opinion that the reasoning which had been given earlier by us also does not suffer from any infirmity and the claim itself throughout was also from a particular date, to which the stand of the State was that the sanction had been granted as per the instructions. Accordingly, the order of the learned Single Judge dated 20.02.2019 and order passed in review petition dated 24.07.2020 are modified to the extent that the amount shall become payable from 01.11.2017. If necessary payments have not been made, the same shall be done within a period of 2 months of the receipt of certified copy of this order.

Appeal stands disposed of, accordingly.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

May 27, 2022
Naveen

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No