

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-492-1996

Date of decision: 05.12.2022

Mohinder Pal Sharma and others

...Petitioners

VS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. G.S.Bal, Senior Advocate with
Mr. J.S.Randhawa, Advocate,
For the petitioners.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to grant Special pay of Rs.60 and Rs.40 per month to Senior Scale Stenographers and Junior Scale Stenographers respectively at par with other corresponding categories in the Haryana Government w.e.f. 01.02.1989 .

2. I have heard learned counsel for the parties and gone through the case file.

3. Learned Senior counsel has rather very emphatically argued that though some of the petitioners work in the Directorate of Public Relations, but from time to time their services were utilized either in Haryana Civil Secretariat or Vidhan Sabha. Despite this, they were made to suffer the indignity of lesser pay than their counter parts. Though on first flush, it may sound discriminatory but a deeper scrutiny as discussed hereinafter reveals otherwise.

4. First and foremost, reference may be had to Rule 3.10 of Haryana Civil Services Rule which envisages that a full time government employee's

“3.10. Unless in any case it be otherwise distinctly provided, the whole time of a Government employee is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority, without claim or additional remuneration, whether the services required of him are such as would ordinarily be remunerated from Union or State revenues, or from the revenues of a local fund.”

5. My attention has been drawn to Annexure R-2 which being self-explanatory is reproduced hereinbelow:

MEMORANDUM

Minister-in-charge *Revenue Minister, Haryana*
Administrative Secretary *Financial Commissioner & Secretary*
to Govt., Haryana, Finance
Department.

Subject:- Grant of special pay of Rs.60/- and Rs.40/- p.m. to the Senior Scale Stenographers and Junior Scale Stenographers, Remembrancer w.e.f. 1.2.1989 respectively of FCR's Office, Haryana Vidhan Sabha, Haryana Public Service Commission and the office of Legal Remembrancer w.e.f. 01.02.1989.

Prior to revision of pay scale w.e.f. 1.1.1986, special Pay at the following rates was admissible to various categories of employees in the cadre of Private Secretaries and Ministerial staff:-

<i>Sr. No.</i>	<i>Name of post</i>	<i>Amount of Spl. Pay</i>
<i>1.</i>	<i>Senior Secretary to the Minister</i>	<i>Rs.200/- p.m.</i>
<i>2.</i>	<i>Secretary to the Minister</i>	<i>Rs.200/- p.m.</i>
<i>3.</i>	<i>Private Secretary</i>	<i>Rs.100/- p.m.</i>
<i>4.</i>	<i>P.A.</i>	<i>Rs.75/- p.m.</i>
<i>5.</i>	<i>Steno-Typist</i>	<i>Rs.50/- p.m.</i>
<i>6.</i>	<i>Deputy Secretary</i>	<i>Rs.200/- p.m.</i>
<i>7.</i>	<i>Under Secretary</i>	<i>Rs.200/- p.m.</i>
<i>8.</i>	<i>Superintendent</i>	<i>Rs.100/- p.m.</i>
<i>9.</i>	<i>Deputy Superintendent</i>	<i>Rs.75/- p.m.</i>
<i>10</i>	<i>Assistant</i>	<i>Rs.30/- p.m.</i>
<i>11.</i>	<i>Clerk</i>	<i>Rs.20/- p.m.</i>

2. The rate of special pay, wherever it was admissible, has been doubled w.e.f. 01.01.1986. Prior to 01.01.1986, no special pay was admissible to the Senior Scale Stenographers and Junior Scale Stenographers of Haryana Civil Secretariat, but after the

revision of pay scales, a special pay of Rs.60/- and Rs.40/- p.m. respectively was granted to them w.e.f. 01.02.1989.

3. After special pay was sanctioned to the Senior Scale Stenographers and Junior Scale Stenographers of Haryana Civil Secretariat, the following four Departments made their representations to Government for the grant of special pay on the pattern of Haryana Civil Secretariat to their Senior/Junior Scale Stenographers at the rate of Rs.60/- and Rs. 40/- p.m. respectively w.e.f. 1.2.1989:-

- 1. F.C.R's Office, Haryana,*
- 2. Haryana Vidhan Sabha.*
- 3. Legal remembrancer, Haryana*
- 4. Haryana Public Service Commission.*

4. In order to maintain their parity with the Haryana Civil Secretariat, the proposal was considered in the Finance Department and it was decided to extend the benefit of special pay of Rs.60/- and Rs.40/- p.m. respectively to the Senior/Junior Scale Stenographers of all the above four departments on the pattern of the Haryana Civil Secretariat. The proposal has been approved by the Hon'ble Chief Minister. The total financial implications involved is Rs.19,680/- per annum only.

5. Accordingly, the matter is placed before the Council of Ministers under rules 5 & 11 read with serial No. 15 of Schedule of the Rules of Business of Government of Haryana, 1977, for consideration and approval.

6. The approval of the Chief Minister for placing the matter before the Council of Ministers has been obtained.

(T.K.BANERJI)
Financial Commissioner & Secretary
to Govt.,Haryana, Finance Department.

Dated, Chandigarh
the 30th August, 1990.”

6. Perusal of the above clearly reflects that the competent authority was fully conscious that the Senior/ Junior Scale Stenographer/ Stenographer working in Haryana Civil Secretariat are entitled to special pay of Rs.60/- and 40/- depending upon their respective position. Upon receipt of representations from similarly situated stenographers working in Vidhan Sabha/Legal Remembrancer Office/Haryana Public Service Commission and Financial Commissioner Revenue, the same was found to be deserving and accepted and the benefit was extended

only to the Senior/Junior Scale Stenographers in the above said four departments in addition to the Haryana Civil Secretariat.

7. In this context, though nothing has been produced on record either in the form of Statutory Rule or Administrative Instructions to describe Class 'A' office but reading of memo dated 30.08.1990 (Annexure R-2) seems to suggest that at that time Class 'A' offices are only five i.e. Haryana Civil Secretariat, Vidhan Sabha, Legal Remembrancer Office, Haryana Public Service Commission and Financial Commissioner Revenue which were agreed to be given additional pay. The same is amplified in the affidavit dated 06.09.2022, relevant whereof is reproduced herein below:

“5. That apart from the above mentioned 5 class A offices (i.e. Haryana Civil Secretariat, Vidhan Sabha, Legal Remembrancer, Haryana Public Service Commission and Financial Commissioner Revenue), the Senior Scale Stenographers and Jr. Scale Stenographers along with other staff of the respondent No.3 department who are posted in the New Delhi office have been granted the special pay on account of arduous nature of their duties. It is pertinent to mention that there is no provision of special pay to the employees working on similar posts in the different Directorate or field offices of the State.”

8. It does appear that at the time of filing the written statement, a conflicting stand was taken inasmuch as in para 2 of the writ petition though specifically stated that Directorate of Public Relations is class 'A' office and the same was admitted. Nothing is there on record to show as to how it is class 'A' and it is merely a word X versus Y and this Court under extraordinary writ jurisdiction cannot give a finding of fact whether DPR is a class 'A' office or not.

9. Further more, the grievance of the petitioners is akin to the ones who were working across board in State of Haryana, Boards, Corporations and various other departments including Universities who were not being given special pay band of Rs.60/- and 40/- on parity with the Haryana Civil Secretariat and upon their representations, matter was referred to Pay Anomaly Committee constituted

by Sh. G.Madhvan, IAS retd. who having gone threadbare into grievance gave a following report:-

“While considering the demand, the Commission observed that the pay scale of posts of Secretariat have remained higher at all times. Therefore, there is no historical or established parity in the pay scales of Ministerial cadre viz Assistant, Deputy Superintendent, Superintendent and Private Secretary in Directorate/Field Offices and Haryana Civil Secretariat of the State.”

That similarly the issue of pay parity of Sr. Scale Stenographer/PA/PS working in the different universities of the state with their counterpart in Haryana Civil Secretariat and similar situated offices was placed before Pay Grievances Redressal Commission headed by Smt. Surina Rajan, IAS Retd. The Commission has declined the demand. on vide recommendations dated 18.12.2022 on the following grounds:

a) The personal staff of the Universities are getting same level of pay as per the 7th Pay Commission.

b) Administrative Departments of the concerned universities have not provided any logic in terms of the work profile or skill sets or a competency mapping that validates any demand for parity in pay scales.

c) The work profile of SSS/PA/ PS who are posted in different Universities of Haryana is limited upto Universities only and the personal staff of the Haryana Civil Secretariat can be posted with the Administrative Secretaries of the different departments/ Ministers/ Chief Minister. With every such change, there is a need to reorient oneself for the changed work profile and administrative work of that particular department. There is therefore a constant challenge arising from such duties, which creates a need for new self-learning and re-training. The two types of posts are not comparable therefore.

d)The demand of pay parity with the SSS/ PA/ PS of Haryana Civil Secretariat is therefore, not justified in view of nature of work and the responsibilities of the State posted at the State HQ.

Hence, no comparison is possible between the personal staff posted at different Universities and Haryana Civil Secretariat Chandigarh.

Thus, instructions dated 26.10.1990 (Annexure P-10)were issued by the Finance Department on the basis of reasons as explained above.”

10. The said report which was obviously against the petitioners and not accepted by the Competent authority and in any case petitioners never challenged the said report. Subsequently once again when they made out their grievance, the matter was again referred to the Grievance Committee.

11. In the teeth of above adverse report as well sound reasoning given by the department, I find no grounds to interfere and the same if done would amount to rather hostile discrimination qua all the other stenographers working in various departments whose similar grievance and claim was not accepted and who will be denied of the benefit merely because the petitioners are before this Court claiming parity with their counterparts in Haryana Civil Secretariat which by mere fact of their appointment is negated as they were appointed in the Directorate and not in the Haryana Civil Secretariat.

12. No grounds are made out to interfere.

13. Dismissed.

(ARUN MONGA)
JUDGE

December 05, 2022

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No