

CWP No.10896 of 2015 (O&M)

Sr.No.1372

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

CWP No.10896 of 2015 (O&M)

Date of Decision: 22.09.2022

Ravi Dutt Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Kulvir Narwal &
Mr. Satish Kumar, Advocates
for the petitioner.

Mr. Lokesh Sinhal, Senior Addl.A.G., Haryana.

ARUN MONGA, J.(ORAL)

Shoe seems to be on the other foot in this case. One before the court is though himself defender of the State, whose interest he steadfastly safeguards every day, but the tables have turned on him and he seeks enforcement of his own right against the very same State and its might, aggrieved by the action of the respondents.

Petitioner is a serving Deputy Advocate General in the State of Haryana. He is aggrieved qua non-grant of LTC benefit, as per the State Government employees' LTC Policy dated 05.02.2009 (Annexure P/1). Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing orders of rejection of claim of the petitioner for Leave Travel Concession (LTC) facility i.e. Annexures P/4, P/6 and P/7 dated 31.10.2014, 18.12.2014 & 12.05.2015, respectively.

CWP No.10896 of 2015 (O&M)

2. Succinct factual narrative first.

2.1. Petitioner joined the office of Advocate General, Haryana as Assistant Advocate General on 24.08.2000. Later, he was appointed as Deputy Advocate General, Haryana on 03.05.2005. Since then he has been continuously working as such till the date of filing the petition, without any break.

2.2. State Government earlier had a policy to grant Leave Travel Concession (LTC) facility to its employees, vide which actual expenses incurred on such facility by an employee and/or dependent family members were reimbursed. Subsequently, in the year 2009 State of Haryana changed the policy and decided that henceforth employees availing the LTC facility will instead be provided one month salary. Said benefit can be drawn by an employee once in a block of 4 years.

2.3. Petitioner applied for grant of LTC facility in the block year 2012-2015. However, he was not accorded the benefit per policy *ibid*. Thereafter he also filed representations dated 28/29.08.2014 (Annexure P/3) and 05.11.2014 (Annexure P/5). His request was finally declined by the Government vide impugned orders.

3. Learned counsel for the petitioner argues that as per prevailing LTC policy dated 05.02.2009 (Annexure P/1) read with Clarification dated 21.04.2010 (Annexure P/2), petitioner is entitled to one month's salary in lieu of LTC facility. Bare reading thereof leaves no manner of doubt or ambiguity on its applicability *qua* the claim of petitioner, he would canvass.

3.1. Learned counsel for the Petitioner further argues that the impugned orders (Annexure P-4, P-6 & P-7) are liable to be set aside,

CWP No.10896 of 2015 (O&M)

being not legally sustainable, since they are premised on untenable reasoning that tenure of Petitioner as law officer was uncertain. Same is belied by the sheer fact that the Petitioner has continuously been in service for the block year 01.01.2012 till 31.12.2015. Hence, is entitled for grant of one month salary. This claim is further supported by subsequent Clarification dated 21.04.2010 (Annexure P-2) of the pre-existing policy decision dated 05.02.2009 (Annexure P-1).

3.2. Elaborating, he would rely on Supreme Court Judgment¹ as also specifically pleaded in sub-para of para 11 of the Writ Petition and urges that once the same is admitted by the respondents, petitioner must succeed on that ground alone. He argues that Supreme Court has therein clearly held that mere use of nomenclature of the post, either appointed or engaged or terming the service contractual in nature, does not make the post of those Law Officers contractual, especially, in light of the fact that there is no express contract in writing. They are to be treated as whole time government employees. In any case, they are debarred from private practice or any other avocation/business.

3.3. He further submits that once the CSR/PFR has been made applicable to these Law officers and they are being granted regular pay scale and annual increments, TA/DA, Fixed Medical Allowance as is being granted at par with permanent employees, then these appointments are deemed to be against permanent sanctioned posts held on permanent basis in the substantive capacity. He further submits that the respondents in their counter reply have admitted applicability of Apex Court judgment interpreting *parimateria* terms and conditions and not distinguished the same in any manner from instant case. Therefore, the claim of the

CWP No.10896 of 2015 (O&M)

Petitioner is squarely covered by said judgment, as also duly admitted by the respondents.

3.4. Learned counsel for the Petitioner would illustratively cite the case of another law officer Babu Ram Dahiya, whose claim for medical reimbursement was rejected. He was also forced to challenge the said rejection before this court². His petition too was also allowed on 04.03.2020. Medical expenses of above named law officer were consequently reimbursed with interest.

3.5. Likewise, another writ petition³ was preferred by one Sh. Madan Gopal Gupta, another law officer of State, claiming revised scale of Rs.37,400+10,000 grade pay w.e.f. 01.01.2006. His claim was also wrongly denied by the State. Yet again, this court allowed his petition vide order/judgment dated 07.07.2014 directing the Respondent-State to pay revised pay scale. Intra court appeal vide an LPA was also dismissed on 11.11.2014. The revised pay scale benefit was extended thereafter to all similarly situated Law officers.

3.6. In the words of learned counsel for the petitioner, the respondents are accustomed by their sheer force of habit, to contest everything that comes before the court. Likewise, in the instant case, without appreciating the pleadings in the Writ Petition, they are contesting the claim herein. They are not even following law laid down by the Supreme Court. Thus, the impugned orders are liable to be set aside.

4. In the reply filed by the State, as also in course of *contra* arguments, emphasis is on the fact that post in question is purely on a

²CWP No 23310 of 2017, titled Babu Ram Dahiya vs. State of Haryana and others; Decided on 04.03.2020

³CWP No. 2426 of 2012, titled Madan Gopal Gupta and another vs. State of Haryana and others; Decided on 07.07.2014

CWP No.10896 of 2015 (O&M)

contractual basis with a condition that services are liable to be terminated at any time without giving prior notice. Therefore, being not a regular government employee, the petitioner is not entitled to Leave Travel Concession facility, as claimed.

4.1. Regarding clarification dated 21.04.2010 (Annexure P-2), Mr. Lokesh Sinhal, Sr. Addl. Advocate General, argues that the same is applicable only to those contractual employees who are appointed for more than four years. Whereas, petitioner has been engaged on provisional basis. The total period of his contractual engagement has neither been prescribed nor can be ascertained.

5. I have heard the rival contentions of the parties.

6. For proper appreciation, the new scheme of LTC for visiting Home Town and any place in India for the State Government employees as per Policy dated 05.02.2009 (Annexure P-1) is reproduced herein below:

“I am directed to refer to Haryana Government letter No.13/16/2001-2S11, dated 5th April, 2007 on the subject mentioned above and to say that till now the facility of leave travel concession for visiting Home Town and any place in India is available to the State Government employees on the pattern laid down by the Government of India with the conditions mentioned-in the State Government letter No. 13/8/84-SII, dated 31-12-1984 and instructions issued subsequently from time to time in this regard.

2. Now the State Government has revised the pay scales of the State Government employees with effect from 1.1.2006. With a view to liberalize the policy of leave travel concession for visiting Home Town and any place in India, the matter has been further considered by the Government and it has been decided that one month's salary would be admissible to the State Government employees in a block of four years, in lieu of LTC/HTC facility. The first block of four years for this purpose shall be 2008-2011 (1.1.2008 to 31.12.2011) and the next blocks of four years for this purpose shall be 2012-2015, 2016-2019, 2020-2023 and so on.

3. *The employees who have availed LTC/HTC facility during the current block of four years 2008-2011 shall not be entitled to one month's salary during this block year. These instructions may be brought to the notice of all concerned.*

4. *This issues with the concurrence of Finance Department conveyed vide their U.O.No.10/33/97-3PR(FD), dated 5-2-2009.”*

7. In fact, controversy *qua* aforesaid is though *res integra*, but with a hope to avoid such like completely avoidable and needless *lis* in future, let us first also analyze and traverse through some of the judicial precedents, for that may perhaps be worthwhile for better education of the respondents.

7.1. Similar terms and conditions of appointment of law officers have already been interpreted in a judgment rendered by Single Bench of this Court⁴, wherein Nirmal Singh, J. (as he then was in this Court) opined that such law officers are permanently appointed and against permanent sanctioned post and thus are entitled to all types of facilities and allowances as admissible to the regular employees including benefits admissible even after retirement. The relevant para of the judgment is as under:-

“After joining as Deputy Advocate General on 2.2.1996, the petitioner resigned resigned from the post of Assistant Advocate General. Similarly, after joining as Senior Deputy Advocate General, he submitted resignation from the post of Deputy Advocate General. A perusal of the orders of appointment and resignation submitted by the petitioner show that this was done with a view that the service of the petitioner should remain continue and there may not be any break in service. Once the petitioner has joined under the same Government without any break, then it is clear that intention of the Government was to keep the services of the petitioner continued on the same terms and conditions.

⁴CWP No. 8273 of 1999, titled G.S. Cheema vs. State of Punjab and others; decided on 22.04.2004

At the hearing, it was admitted by Ms Rita Kohli, learned Deputy Advocate General, that the petitioner's performance was reviewed annually and on the basis of that, he was allowed annual increments. She further admitted that the petitioner was a subscriber to General Provident Fund. Under the Rules, only a regular employee is entitled to subscribe to the General Provident Fund. The employees, who are working on daily wages/ work charge or on contract basis, are not entitled to subscribe to the General Provident Fund. The petitioner was also getting earned leave as per Annexure P-14/A. Under Rule 8.116(1) of the Rules, the earned leave is admissible to a Government employee, who is a permanent employee. It must, therefore, be held that the petitioner's employment as Assistant Advocate General, Deputy Advocate General and Senior Deputy Advocate General was not contractual in nature, but was governed by the Rules."

7.2. Above said view of learned Single Judge later travelled through intra court Division Bench appeal in this court to the Supreme Court⁵. Same was upheld by Apex Court vide a common judgment/order dated 17.03.2009, as under:-

"1. The matter relates to termination of the first respondent as Deputy Advocate General by the State of Punjab. The respondent challenged the termination order dated 19-7-1993 as illegal on the ground that her appointment was as a regular government servant and not a contractual engagement as counsel. The learned Single Judge by judgment dated 30-5-1997 upheld her contention and allowed her writ petition, declared the termination order dated 19-7-1993 as illegal and quashed it. He also held that the first respondent was entitled to all consequential benefits. The intra-court appeal filed by the appellants was dismissed by the Division Bench on 6-2-1998. The said judgment is under challenge.

2. The impugned judgment of the High Court dated 6-2-1998 in the case of the first respondent was followed by the High Court in a subsequent similar case relating to termination of a Senior Deputy Advocate General—G.S. Cheema v. State of Punjab [CWP No. 8273 of 1999 decided on 22-4-2004 (P&H)] . The State challenged the decisions of the High Court in the case of the first respondent (in this appeal) and in G.S. Cheema (in CA No. 6057 of 2004). Both appeals were being listed together for final hearing.

3. When the appeals came up on 29-1-2009, the learned counsel for the State submitted that the State Government has

⁵Civil Appeal No. 5810 of 2000 & connected Civil Appeal No.6057 of 2004

taken a decision to implement the order of the High Court in G.S. Cheema [CWP No. 8273 of 1999 decided on 22-4-2004 (P&H)] and absorb him in service. Recording the said submission, CA No. 6057 of 2004 was dismissed.

4. With reference to this appeal (relating to S.K. Bhatia), the learned counsel for the State sought time to secure specific instructions. Thereafter, the matter was adjourned to 19-2-2009 at the request of the counsel for the State and again adjourned at his request today. When the matter came up today, the learned counsel for the State submitted that he has not received any instructions from the State.

5. When the State Government has accepted the decision rendered by the High Court in G.S. Cheema [CWP No. 8273 of 1999 decided on 22-4-2004 (P&H)] , which followed the impugned judgment, the State Government has to adopt the same yardstick in this case also, unless there are any distinguishing factors or circumstances. The learned counsel for the appellant has not been able to show any difference between the facts of this case, and the facts in G.S. Cheema [CWP No. 8273 of 1999 decided on 22-4-2004 (P&H)] .

6. We are also informed that during the pendency of the proceedings, the first respondent has attained the age of superannuation and all that therefore remains to be done is to process and disburse the terminal/retiral benefits.

7. In view of the above we dismiss this appeal. Needless to say that the retiral benefits due to the respondent in accordance with law, will have to be processed expeditiously, that is, within four months.”

7.3. Reference may also be had to another subsequent Supreme Court judgment in Civil Appeal No.7872 of 2004, wherein relying on its own earlier judgment *ibid*, it was further opined/reiterated as under:⁶

“This appeal is directed against the judgment delivered by the High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition No. 662 of 2004 dated 12-7-2004. The respondent herein, Suresh Kumar Sharma was appointed as Assistant Advocate General, Punjab by the Order dated 28-4-1986 of the Government of Punjab. The order reads as under:

*“Government of Punjab
Department of Home Affairs and Justice
(Judicial Branch)*

The Governor of Punjab is pleased to appoint the following advocates as Assistant Advocates General, Punjab in the scale of Rs. 2000-2300 plus usual allowances attached to these posts, from the date they assume charge:

⁶ CA No.7872 of 2004, titled as State of Punjab and Another vs. Suresh Kumar Sharma;

1. Shri Suresh Kumar Sharma

2. Shri Ranjit Singh Gill

3. Ms Sukhcharan Kaur Bhatia

2. The terms and conditions of their appointment will be as under:

‘(i) They will be whole time government employees and will do all criminal and miscellaneous work entrusted to them by the Advocate General, Punjab,

(ii) Their appointment is purely temporary and services are terminable without assigning any reason and without notice,

(iii) For conducting civil cases only, they will be paid two-third of the prescribed fee,

(iv) If on any particular day they have no criminal case to conduct in the High Court, fees payable to them in civil cases will be reduced by the amount of their salary for that day,

(v) In the matter of leave and travelling allowances, they will be governed by the Punjab Civil Services Rules,

(vi) House rent allowance will be admissible to them,

(vii) Their services are contractual in nature and, as such, they will not be entitled to any other benefit viz. pension, gratuity and encashment of leave, etc.

(viii) Their appointment would be against a non-pensionable post.’

Chandigarh

Dated 28-4-1986

sd/-

(R.P. OJHA)

Financial Commissioner & Secretary

to Government of Punjab

Department of Home Affairs and Justice.

No. 1/5/86-4 Judl./1111.....”

2. It may be pertinent to mention that Ms S.K. Bhatia was also appointed along with the respondent herein. According to Mr P.S. Patwalia, learned Senior Counsel appearing for the respondent, this case is covered by the judgment of this Court in State of Punjab v. S.K. Bhatia.

3. The brief facts of this case which are relevant to dispose of the appeal are recapitulated as under: the respondent was appointed as Assistant Advocate General and thereafter he was appointed as Deputy Advocate General and Senior Deputy Advocate General in the State of Punjab. The respondent superannuated on 31-3-2003. The pensionary benefits were denied to the respondent, then he approached the High Court and made grievance that the respondent was wrongly denied pensionary benefits. It may be pertinent to mention that some similarly placed persons were also denied pensionary benefits after their superannuation and in the writ petitions of V.P. Parashar, D.N. Rampal and S.K. Bhatia, the High Court allowed their writ petitions and directed the State of Punjab to give them pensionary benefits. Mr. Patwalia has

particularly referred to the judgment of S.K. Bhatia who was appointed along with the respondent herein.

4. The learned Single Judge has also quoted the terms and conditions of the appointment of S.K. Bhatia, which would also be the same in the case of the respondent herein. The terms and conditions of the appointment read as under:

“(i) They will be whole time government employees and will do all criminal and miscellaneous work entrusted to them by the Advocate General, Punjab,

(ii) Their appointment is purely temporary and services are terminable without assigning any reason and without notice,

(iii) For conducting civil cases only, they will be paid two-third of the prescribed fee,

(iv) If on any particular day they have no criminal case to conduct in the High Court, fees payable to them in civil cases will be reduced by the amount of their salary for that day,

(v) In the matter of leave and travelling allowances, they will be governed by the Punjab Civil Services Rules,

(vi) House rent allowance will be admissible to them,

(vii) Their services are contractual in nature and, as such, they will not be entitled to any other benefit viz. pension, gratuity and encashment of leave, etc.

(viii) Their appointment would be against a non-pensionable post.”

5. The learned Single Judge, after elaborately dealing with the arguments of the learned counsel for the parties, clearly came to the conclusion that appointment of S.K. Bhatia was not in the nature of contract of personal service but as a regular government employee. The learned Single Judge has held:

“... I hold that the appointment of the petitioner was not in the nature of contract of personal service, but as a regular government employee.”

6. The judgment of the learned Single Judge in S.K. Bhatia was challenged before the Division Bench of the High Court of Punjab and Haryana. The judgment of the Single Judge was upheld by the Division Bench. The order of the Division Bench reads as under:

“Heard. The learned Single Judge has held, inter alia, on the basis of the Notification dated 3-3-1980, as also the view taken in D.N. Rampal case and in V.P. Parashar case that the appointment of the petitioner was not in the nature of contract of personal service but as regular government employee. The learned Single Judge has also held that stipulation of the condition that the employment is contractual was wholly arbitrary, unjust and unconstitutional.

Further, the learned Single Judge has applied the ratio of the decision of the Supreme Court in Shrilekha Vidyarthi v. State of U.P. [(1991) 1 SCC 212 : 1991 SCC (L&S) 742 and distinguished the decision in State of U.P. v. U.P. State Law Officers Assn. [(1994) 2 SCC 204] on the basis of mode of initial appointment of the respondent as Assistant Advocate General and therefore her appointment as Deputy Advocate General.

Dismissed.

6-2-1998

sd/-

Arun B. Saharya
Chief Justice

sd/-

Swatanter Kumar
Judge”

7. The State of Punjab challenged the judgment of the Division Bench before this Court. This Court, in appeal, passed the following order:

XXXXXXXXXXXX (already reproduced above in para 7.2.)

8. Mr. Patwalia submits that the case of the respondent is squarely covered by S.K. Bhatia because she was also appointed on the same day by the same order in the same position and the benefits which were extended to S.K. Bhatia should also be given to the respondent herein.

9. We have heard the learned counsel for the parties.

10. The learned counsel appearing for the State of Punjab could not distinguish the case of the respondent with S.K. Bhatia and other cases. Consequently, the respondent herein, who has already attained superannuation from service would also be entitled to get pensionary and other benefits due to him in accordance with law.

11. We direct that all the pensionary and other benefits, if any, be given to the respondent within four months from the date of communication of this order. In the special facts and circumstances of the case, we deem it appropriate to direct the State of Punjab to pay costs of Rs. 25,000 to the respondent. Let the costs be paid within four weeks from the date of communication of this order. The appeal is, accordingly, allowed (sic) and disposed of.”

7.4. It does appear, that approach of the respondents has been somewhat lop sided and perhaps discriminatory too, as is illustratively borne out from their past conduct, in as much as not extending the proper

CWP No.10896 of 2015 (O&M)

pay scale of Rs. 43,390+10,000 Grade pay w.e.f. 01.12.2009. Despite an administrative decision to do so, respondents yet again passed an illegal and arbitrary order and instead granted a lower pay scale than the one deserved/admissible. Said action of the State of Haryana was also challenged by one of the Law Officers⁷. Action of the Respondents was declared as illegal and arbitrary and his Writ Petition was allowed vide judgment dated 08.03.2019 rendered by Rajiv Narain Raina, J. (as he then was in this Court). Relevant paras thereof are as under:-

“xxxx xxxx xxxx

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 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.*

xxxx xxxx xxxx”

Thereafter, thankfully, as the counsel for the petitioner would also put it, the Government did not file an LPA and implemented the

⁷CWP No.21969 of 2017, titled *Sh. Sunil Kumar Nehra and others Vs State of Haryana and another and other connected cases*, Decided on 08.03.2019

CWP No.10896 of 2015 (O&M)

above order and extended the benefit of Rs. 43,390+10,000 grade pay to all the similarly situated law officers.

7.5. Furthermore, reference may also be had to judgment of a Single Bench judgment titled *Shamsher Singh Pattar vs. State of Haryana and others*⁸, pertaining to claim in another co-related proceeding for reimbursement of medical expenses, wherein Rameshwar Singh Malik, J (as he then was in this Court) while in turn relying upon another earlier judgment of this Court in *Harpal Singh Baidwan vs. State of Punjab*⁹ allowed the petition after recording the contentions made therein, in the following terms:-

“Learned counsel for the petitioner has relied upon State of Punjab and another v. Suresh Kumar Sharma reported as 2010(4) S.C.T. 490 : 2011(1) SLR 280 to contend that The Assistant Advocate General and Deputy Advocate General are in the capacity of Govt. servants and therefore they are entitled to pension. They are in regular Govt. service. If they are allowed to continuous and qualifying service of pension, they cannot be denied pension on the basis of an arbitrary condition as to contract or service included in their appointments letters. Once this question is decided in another case up to the Supreme Court and the judgment is implemented, the same objection cannot be raised subsequently in other cases. Reliance has also been placed on Dr. Mrs. S.K. Bhatia v. State of Punjab, reported as 1998(1) SCT 514 where a single bench of this Court, dealing with Rules 1.3 and 1.4 of the Punjab Civil Services Rules, Vol..1 Part 1 held that appointment as Deputy Advocate General and Assistant Advocate General under the Rules are made on regular basis in regular pay scale and the incumbents are treated as Govt. servants and merely adding an arbitrary clause showing the appointment as contractual cannot empower the Government to terminate the services of the incumbent at any time without complying with the procedure and principles of natural justice. The unilateral and arbitrary clause in the appointment letter contrary to rules has to be struck down. Reference has also been made to CWP No. 7078 of 2002, decided on 21.5.2012, Kanwaljit Singh Bakshi v. State of Punjab and another wherein also there was an issue with regard to appointment of the petitioner as Assistant Advocate General on contractual

⁸Dated 31.08.2016 rendered in CWP No. 7816 of 2015

⁹2014(2) SCT 799

basis. In that case also the judgment in the case of Dr. Mrs. S.K. Bhatia was followed.”

7.6. Thereafter, the Government filed an intra court DB appeal¹⁰ which was though partly allowed, but while upholding the directions to reimburse the medical expenses. Letters Patent Bench of this Court held that once it has been mentioned in the terms and conditions that these Law Officers will be entitled to all types of allowances as admissible to the Haryana Government employees, there being no specific exclusions of reimbursement of medical expenses, then the action of the Respondents in rejecting the claim of petitioner therein was not legally sustainable. Division Bench also interpreted the phrase “Plus Usual Allowances” as mentioned in the terms and conditions of appointment of the Law Officers. Speaking for the Letters Patent Bench, Sudip Ahluwalia, J. (as he then was in this Court) *inter alia* observed as under:-

“xxxxxxxxxxxx

9. The respondent-Writ Petitioner has, however, drawn attention of this Court to the undisputed terms & conditions of service of the Writ Petitioner along with 12 other Senior Deputy Advocate Generals, to which, a detailed reference was made by the Ld. Single Judge in the impugned Judgment. The relevant extracts in this regard are set out as below –

“.....Coming to the terms and conditions of service of the petitioner along with 12 other Senior Deputy Advocate Generals, where the name of the petitioner was at Sr. No.11, issued vide Annexure P-2 dated 25.10.2005, para 2 along with its relevant clauses as well as para 4 thereof which are relevant, read as under:-

“The Governor of Haryana is pleased to fix the terms and conditions of the engagement of the above mentioned Senior Deputy Advocate Generals in the office of Advocate General, Haryana as under:-

i) The Senior Deputy Advocate Generals are to be entitled to the pay scale 18400-500-22400+700 NPA per month plus usual allowance as sanctioned by the Haryana Government from time to time.

- ii) *That the service of the above Senior Deputy Advocate Generals are contractual in nature and are liable to be terminated at any time without mentioning any reason or notice.*
- iii) *They will be entitled house rent allowance as is admissible to Haryana Government employees.*
- iv) *In the matter of leave/travelling allowance, the CSR/PFR applicable to Haryana Government employees will be applicable to the said law officers.*
- v) *The officers so engaged will not be entitled to the payment of any pensionary benefits.*
- vi) *This contractual service will not give any right to Senior Deputy Advocate Generals to claim the benefit of regular service in the office of Advocate General, Haryana or any other office of the State Government.*
- vii) *They will be whole time Govt. servant and do all criminal, civil and misc. work entrusted to them by the Advocate General, Haryana ”*

xxx xxxxxx

These issues with the concurrence of Finance Department conveyed vide their U.O. No.1/31/2005-2 F.G.-1/1530, dated 25.10.2005..... ”

10. Perusal of the highlighted portion in the agreed terms & conditions of the Writ Petitioner's service as noted in item (i) above by the Ld. Single Judge clearly goes to reveal that he was entitled to the Specific Remuneration & 'plus usual allowance as sanctioned by the Haryana Government from time to time'.

11. It is the logical contention raised on behalf of the Respondent/Writ Petitioner that the words 'Plus Usual Allowance' automatically cover the 'Medical Reimbursement' as admissible to the employees of Haryana Government from time to time, since the same was not specifically excluded anywhere in the undisputed terms & conditions. To that extent, therefore, the Ld. Single Judge has logically held that the Medical disbursement was admissible to the Writ Petitioner.

xxx xxxxxx

15. The purport of the aforesaid restriction regarding disentitlement to 'any other allowances and fees' has, however, to be understood in the context of the performance of professional obligations/Legal work, as would have been entrusted to the concerned appointee inasmuch as he was also barred from taking any other Legal work, except that of the State, and that he was required to place his 'whole time' at the disposal of the State. It would thus appear that in drawing attention to the aforesaid item in the previous Appointment Order of Shri Ram Avtar Singh as Additional

AG, the consideration of the remaining facilities to be provided to him was apparently lost sight. Those included the Telephone facility of STD at the appointee's residence upto the ceiling limit of 2000 calls by monthly at State expense, as also the Car Allowance at the rate of Rs.2500/- per month, (which undoubtedly was a substantial amount in 1999). But the most important omission in this regard happens to be in respect of facilities provided to Shri Ram Avtar Singh as covered in item (v) of his aforesaid Appointment Order, which is set down below –

*“He shall be entitled to TA Medical attendance facilities and leave etc. as are admissible to senior class-I officers of the Haryana Govt.”
(Emphasis supplied)*

16. It is thus seen that the Government of Haryana had been providing the Medical Attendance Facilities to their Law Officers appointed as Additional Advocate Generals at par with those admissible to Senior Class-I Officers in the past as well. As such, in the absence of any specific dis-entitlement to Medical Facility/Expenses/Disbursement in the Appointment Order of the Respondent/Writ Petitioner, it would logically follow that he would also be entitled to the same, which undoubtedly was meant to be covered in the words 'Plus Usual Allowances' in his Appointment Order and the terms of service in relevant year 2005. The subsequent Communications covered in Annexures P-7 and P-8 to the effect that the Contractual Employees are to be treated as Casual Employees, or that Medical Reimbursement is not admissible to them, therefore, become altogether irrelevant in the present case.

*17. For the aforesaid reasons, we see absolutely no impropriety in the finding of the Ld. Single Judge that the Writ Petitioner was entitled to disbursal of the admissible Medical expenses incurred by him for his mother's treatment. We, however, do appreciate the contention advanced on behalf of the appellants that there was no occasion to award any Penal costs or high interest on the delayed payment, apart from certain other observations in the nature of stricture against the State Authorities in the impugned Judgment. We say so for the reason that there were contentious issues and it was not a case where the appellants/State can be said to have declined the reimbursement of Medical Claim for extraneous consideration or for no reason.
xxxxxxxxxxxxx”*

8. Subsequently, the State approached the Supreme Court¹¹

which also upheld the finding of the Ld. Single Judge regarding disbursal

CWP No.10896 of 2015 (O&M)

of admissible Medical expenses incurred by the petitioner therein for his mother's treatment.

9. In the aforesaid background, axiomatic now it is to say that the law officers, appointed on the terms and conditions as in the present case, have to be treated as permanently appointed against permanent sanctioned posts. Therefore, the argument of learned State counsel that the Petitioner was appointed on provisional basis is being noted only to be rejected. No doubt, once the legal work is being entrusted to the concerned appointee, inasmuch, since he is also barred from taking any other legal work except that of the State, he has to be held entitled to all usual allowances as sanctioned by the Haryana Government from time to time and, the 'usual allowances' would automatically cover the 'LTC' facility. Learned State counsel has not been able to distinguish the judgments *ibid* which squarely cover the case of the petitioner. I see no reason as to why Petitioner's case be treated any differently.

10. In the premise, the petition is allowed. Respondents are directed to release one month's salary to the petitioner for all the block years of his employment as per the policy *ibid*, to which he is legally entitled. Necessary exercise be carried out within a period of three months from the date of receipt of a certified copy of this order.

11. Pending civil miscellaneous application, if any, also stands disposed of.

September 22, 2022
ashish

(ARUN MONGA)
JUDGE

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