

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

226+234

(1)

LPA-1598-2019 (O&M)

State of Haryana & another

....Appellants

VERSUS

Varun Gupta

....Respondent

(2)

LPA-674-2021 (O&M)

State of Haryana & another

....Appellants

VERSUS

Nitesh Sharma

....Respondent

Date of decision: 15.03.2022

**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. Ranjit Saini, Advocate for the respondent
in LPA-1598-2019.

Mr.Ravinder Malik (Ravi), Advocate, for the respondent
in LPA-674-2021.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. SANDHAWALIA, J. (Oral)

Present letters patent appeal bearing LPA-1598-2019 arise
out of the judgment dated 03.07.2019 passed by the Learned Single Judge

in **CWP-4881-2018 'Varun Gupta Vs. State of Haryana and another'** whereby directions had been issued to the State to implement the instructions dated 03.11.2017 (Annexure P-6) and grant the benefit of minimum of the Pay-Scales to the contractual employees. Directions were thus issued to pay the same within a period of 3 months from the date of receipt of certified copy of the said order, failing which, interest @ 12% per annum was liable to be paid. Costs of Rs.25,000/- were also imposed upon the Director General, Department of Women & Child Development, which was to be recovered from his salary, for not addressing the issue of the petitioner.

Similarly, LPA-674-2021 has been filed against the judgment passed in **CWP-38238-2018 'Nitesh Sharma State of Haryana and another'** wherein the above view has been followed by another Co-ordinate Bench on 16.03.2021. In the said case, the respondents have been directed to pay the minimum Pay-Scales from the date of joining till date within a period of 3 months from the date of receipt of certified copy of the order.

The issue already stands settled by the Apex Court in **State of Punjab & others Vs. Jagjit Singh & others (2017) 1 SCC 148** regarding the grant of minimum Pay-Scale. It is not disputed that the State itself has issued the instructions dated 03.11.2017 which provide that the benefit is to flow from 01.11.2017. In such circumstances, we do not find any justification on behalf of the State that he is not entitled for the benefits of minimum of Pay-Scales, as has been held by the Apex

Court and to distinguish the same. Thus, there is no valid basis not to grant the said benefits to the writ petitioner who has been appointed as a Assistant at Headquarters on contractual basis @ Rs.8000/- per month. The said instructions would be equally applicable to the writ petitioner and the distinction which has now been sought to be made that the appointment was under the Special Cell for Women & Child to work on the issue of Protection From Domestic Violence Act and Prohibition of Child Marriage Act, 2006 and he is not liable, is not justifiable in any manner from the appointment letters.

In such circumstances, the respondents were bound by the instructions dated 03.11.2017 whereby the payment is to be made on the minimum of the Pay-Scales given to similarly situated persons and no fault can be found in the orders of the Learned Single Judge. From the perusal of the record, nothing could be shown that the writ petitioner was discharging duties which was less than the similarly situated persons who had been appointed as Assistant on contractual basis in the Headquarters to perform the same nature of duties as a person who was appointed on regular basis. Therefore, the distinction which has now been sought to be made, is without any basis. Accordingly, LPA-1598-2019 is dismissed.

However, in LPA-674-2021, the Learned Single Judge has apparently issued directions that the petitioner would be entitled for the minimum Pay-Scales from the date of joining which was 21.08.2017 (Annexure P-3). As noticed, the instructions were issued for payment from a specific date and once the State has taken a categorical decision,

the entitlement would be from 01.11.2017 and not from the date of joining and even the claim of the writ petitioner was on the basis of the instructions dated 03.11.2017. Similar argument has been raised that appointment of the respondent was as Assistant who was under the State Resource Centre for Women on a consolidated salary of Rs.15,000/- per month. Therefore, the said instructions would not be applicable, is without any basis as nothing could be shown from the said instructions that the persons appointed under the said scheme would not be entitled for the benefits of the judgment passed in Jagjit Singh (supra) as per instructions dated 03.11.2017 as per the reasoning given above. Resultantly, LPA-674-2021 is allowed, to the extent that the amount payable would be from 01.11.2017.

Since the main appeals are disposed of, all pending CM applications also stands disposed of.

(G. S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

March 15, 2022
sailesh

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