

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

CWP No. 31204 of 2018 (O&M)

Date of Decision:04.07.2022

Gautam Verma and others

.....Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Munish Bhardwaj, Advocate
for the petitioners.

Ms. Sunint Kaur, AAG., Punjab.

LISA GILL, J(Oral).

Petitioners, who are working on various posts at the District and Session Division, Rupnagar, have filed the present writ petition with the following prayer:-

“Civil Writ Petition under Article 226 of the Constitution of India for the issuance of appropriate writ, order or direction especially in the nature of certiorari for quashing of order dated 15.10.2018 and order dated 15.11.2018, Annexures as P-10 and P-11 vide which the respondent no.1 and 2 has denied to implement the order dated 10.04.2018 passed by respondent no.4 (Annexure as P-5) whereby, the petitioner’s claim to grant House Rent Allowance @ 12.5 % of the Basic pay w.e.f., 01.01.2012 was allowed in view of instructions contain in Punjab Govt., notification No. 4/7/09-2FB1/374 dt. 12.08.2009 and the denial is only on the ground that the claim of petitioners will be considered after the recommendations made by 6th pay commission of Punjab; being the said action of respondent no.1 and 2 is not only illegal, discriminatory, arbitrary but also violative of law laid down on very similar issue by this Hon’ble High Court in judgement dated 04.04.2013 passed in CWP No.

5741 of 2012, titled as Ajmer Singh and others Vs. State of Punjab and others (Annexure as P-8).

And also to issue a writ of mandamus directing the respondents to implement the order dated 10.04.2018 passed by respondent no.4 (Annexure as P-5) and grant House Rent Allowance to the petitioners @ 12.5% of the Basic Pay w.e.f., 01.01.2012 in view of instructions contain in Punjab Govt., notification no. 4/7/09-2FP1/374 dt. 12.08.2009, issued in pursuance of recommendations made by 5th pay commission of Punjab with all consequential benefits;

Issue any other order or direction which this Hon'ble Court deems fit and proper under the facts and circumstances of the case.”

It is submitted that as per government instructions dated 12.08.2009, Annexure P-1, a city with population of 50,000 and above but less than 5 lakhs will be classified as a 'C' Class City pursuant to recommendations of 5th Punjab Pay Commission and that government employees of a 'C' Class city, shall be entitled to House Rent Allowance (for short 'HRA') at the rate of 12.5% of basic pay. It is further submitted that as per the Census-2011, population of Rupnagar (Urban) was 56038 i.e., more than 50,000, therefore petitioners are entitled to HRA at the rate of 12.5% of basic pay instead of 10% which is being released to them.

Petitioner no.1, serving as Reader submitted representation dated 27.03.2018 before the learned Civil Judge (Sr. Division), Rupnagar, for grant of HRA at the rate of 12.5%. Status of population of Rupnagar (Urban) was sought by learned Civil Judge (Senior Division), Rupnagar from the office of District Statistical Officer, Rupnagar, who vide letter dated 28.03.2018, Annexure P-3 informed that as per Census-2011, population of Rupnagar (Urban) is 56,038. Matter was accordingly forwarded to learned District and Sessions Judge, Rupnagar for appropriate

orders on 04.04.2018. Learned District and Sessions Judge, Rupnagar, vide order dated 10.04.2018, Annexure P-5, taking into consideration notification dated 12.08.2009, Census-2011 besides the facts and circumstances of the case, held that employees working at Rupnagar Headquarter are permitted to draw HRA at the rate of 12.5% of the basic pay w.e.f., 01.01.2012, subject to any clarification/audit objection, if any.

District Treasury Officer, Rupnagar, respondent no.3, on 01.05.2018, sought directions from respondent no.2 regarding compliance of order dated 10.04.2018 passed by the learned District and Sessions Judge, Rupnagar. No action was taken thereon. Representation is stated to have been submitted by petitioner no.1 on which claim of the petitioner was rejected vide order dated 15.10.2018 and 15.11.2018, Annexures P-10 and P-11, stating that new rate of HRA will be considered after receipt of report/recommendation of 6th Punjab Pay Commission. Aggrieved therefrom, present writ petition has been filed.

Reliance has been placed on decision dated 04.04.2013, passed in CWP No. 5741 of 2012, which is stated to have been implemented by the respondents. Grievance raised in CWP no. 5741 of 2012 was that petitioners therein, serving in the city of Jagraon were declined benefit of HRA at the rate of 7.5% of the basic pay, on the ground that when notification dated 09.01.1998 was issued by the State of Punjab, population of the said city was less than 50,000, therefore, said city was claimed to fall in the category of unclassified towns and employees of such towns were entitled to 5% HRA of the basic pay. As per notification dated 09.01.1998 which was issued by the respondents in view of the recommendations of the 4th Pay Commission, a city with population of 50,000 and above, but less than 5 lakhs was classified as a 'C' Class category city and employees working

in such a city were entitled to 7.5% of the basic pay. Employees had agitated for HRA at the rate of 7.5% on the ground that in the Census held in the year 2001, population of the city of Jagraon was 60080 i.e., more than 50,000, therefore the said employees are entitled to HRA at the rate of 7.5% w.e.f., 01.01.2001. Similar objection as in the present writ petition was raised by respondents to the effect that when notification dated 09.01.1998 was issued for classification of cities as per recommendations of the 4th Pay Commission, population of the city of Jagraon was less than 50,000 and that, population of the city was to be taken from 01.01.1996. It was further contended by the respondents that recommendations of the 5th Pay Commission were made effective w.e.f., 01.08.2009 vide notification dated 12.08.2009 and Jagraon classified a 'C' category city and pursuant thereto employees are entitled to HRA at the rate of 7.5% and prior thereto they could not be given HRA meant for a 'C' category city. This contention was negated by the Coordinate Bench in CWP No. 5741 of 2012 while observing as under:-

“A perusal of the above would show that a criteria has been laid down for classifying the cities dependent upon the population of the said city/town. The categorization/classification, thus, is dependent upon the population of the city/town for declaring it in a particular class. As per the stand of the respondents, Government of India Census 1991 was initially taken when the notification dated 9.1.1998 was issued for classification of the cities. Census was again held in the year 2001 by the Government of India, according to which population of city Jagraon was 60080 (Annexure P-5).

If that be so, city Jagraon which had more than 50000 population w.e.f. 2001 as per census of Government of India which is to be taken as the basis for counting the population of

a city, Jagraon is a class 'C' city entitling the employees of the Government of Punjab including the petitioners, to the HRA at the rate of 7.5% of the basic pay w.e.f. 01.01.2001. The impugned order dated 8.3.2011 (Annexure P-8), thus, cannot sustain and the same stands quashed.”

Writ petition was accordingly allowed and petitioners therein were held entitled to HRA at the rate of 7.5% of the basic pay w.e.f., 01.01.2001 treating the town of Jagraon a Class ‘C’ City. It was further directed that arrears be calculated and released to petitioners therein within three months from the date of receipt of certified copy of the order. It is not disputed that order dated 04.04.2013 in CWP No. 5741 of 2012, stands implemented. This is also reflected in order dated 09.08.2016 dismissing LPA No. 536 of 2015 filed by the respondents challenging order dated 04.04.2013.

In the instant writ petition, as per notification dated 12.08.2009, revised classification of cities/towns in the State for the purpose of grant of HRA and the admissible rate is as under:-

Sr. No.	Population of City/Town	Category	House Rent Allowance (% of Basis Pay)
1.	50 lakhs and above	A	30
2.	5 lakhs and above but less than 50 lakhs	B	20
3.	50,000 and above but less than 5 lakhs	C	12.5
4.	Less than 50,000 including villages and unclassified areas	D	10

It is not disputed that as per Census-2011, population of the city of Rupnagar is more than 50,000, therefore it clearly falls in Category ‘C’ as per notification dated 12.08.2009.

Learned counsel for the State is unable to deny that an identical

objection has been raised in this writ petition as was raised in CWP No. 5741 of 2012, which admittedly did not find favour with the Coordinate Bench. Learned counsel for the State is unable to distinguish the present case from the controversy as involved in CWP No. 5741 of 2012.

Accordingly, it is held that the city of Rupnagar having population of more than 50,000 w.e.f., 01.01.2012 as per Census-2011, is a Class 'C' city, which entitles the employees including the petitioners to HRA at the rate of 12.5.% w.e.f., 01.01.2012.

Writ petition is accordingly allowed and impugned orders dated 15.10.2018 and 15.11.2018, Annexures P-10 and P-11, are quashed. Petitioners are held entitled to HRA at the rate of 12.5% of the basic pay w.e.f., 01.01.2012 treating the town of Rupnagar as Class 'C' City. Arrears be calculated and released to the petitioners within a period of three months from the date of receipt of certified copy of the order.

[LISA GILL]

Judge

04.07.2022

s.khan

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