

CWP-1067-2020 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105-1)	CWP-1067-2020 Date of decision:- 26.04.2023
Baljit Singh and others	...Petitioners
Versus	
State of Haryana and others	...Respondents
(105-2)	CWP-15328-2019
Om Pal and others	...Petitioners
Versus	
State of Haryana and others	...Respondents
(105-3)	CWP- 20150-2020
Vikram Kumar and others	...Petitioners
Versus	
State of Haryana and others	...Respondents
(105-4)	CWP-21808-2020
Anil Kumar and others	...Petitioners
Versus	
State of Haryana and others	...Respondents
(105-5)	CWP-697-2020
Sanjeev Kumar and others	...Petitioners
Versus	
State of Haryana and others	...Respondents

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CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Subhash Rana, Advocate
for the petitioners in CWP-697-2020.

Mr. Shyam Singh Chhokar, Advocate
for the petitioners in CWP-15328-2019.

Mr. Ramesh Goyat, Advocate
for the petitioner(s) in
CWP-20150-2020, CWP-21808-2020 and CWP-1067-2020.

Mr. Ravi Dutt Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

1. This order shall dispose of the above mentioned five writ petitions as the controversy involved in these petitions, is identical. For the sake of convenience and on a consensus between both the parties, facts are being taken from CWP-1067-2020.

2. Challenge in the writ petition is to the impugned communication dated 06.12.2019, Annexure P-7, vide which arrears of overtime allowance from 01.04.2013 to 31.12.2016 have been denied to the petitioners. A direction has been sought to the respondents to release the aforesaid allowance to them.

3. Petitioners were appointed on contract basis against regular posts of Conductors and Drivers in the Haryana Roadways as per details appended as Annexure P-1. Their services were governed by Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995 as amended from time to time. Vires of the Rules were successfully challenged by some employees and a Division Bench of this Court by judgment dated

01.04.2013 passed in **CWP-22516-2012** titled as ***Mohinder Singh and others Versus State of Haryana and others***, Annexure P-2, held that placing the petitioners on consolidated salary is impermissible and they are entitled to the minimum of the pay scale from the date of their initial appointment. Respondents were directed to pay the arrears for a period of three years and two months prior to the filing of the petition. In SLPs, preferred by the State, this judgment was modified and the Apex Court by order dated 31.01.2017, Annexure P-3, held that the employees are entitled to the arrears w.e.f. date of the judgment, Annexure P-2. Although, the payment of the arrears was made to the petitioners, the respondents did not grant them arrears of overtime allowance on the minimum of the pay scale granted by the Court.

4. By placing reliance upon judgment dated 01.02.2019, Annexure P-4, passed in **CWP-3005-2018, *Brij Bhusan and others Versus State of Haryana and others*** filed by some of the colleagues of the petitioners, counsel for the petitioners contends that a direction deserves to be issued to the respondents to pay overtime allowance on the revised scales. Reliance has also been placed upon the judgment passed by this Court in **CWP-30286-2018**, decided on 08.02.2023 titled as ***Gurinder Pal and others and State of Haryana and others***, whereby, while disposing of a bunch of petitions, a direction was issued to the respondents to grant arrears of difference of overtime allowance to the petitioners in the un-revised and revised pay scales for the period 01.01.2016 to 31.03.2017.

5. Petition has been resisted by the respondents by filing a response, wherein a stand has been taken that although the petitioners have

been granted the regular pay scale in compliance of the judgment passed by the Court, but they are not entitled to arrears of overtime allowance. Reference has been made by the State counsel to the instructions issued by the Government vide Memo dated 03.02.2010, Annexure R-1, wherein it has been laid down that overtime allowance at the rate of revised basic pay will be paid w.e.f. 01.01.2009, i.e., the date from which other allowances viz. HRA, Medical etc. has been paid to the employees.

6. I have heard counsel for the parties and considered their respective submissions.

7. Some of the counterparts of the petitioners have approached this Court by filing a writ petition, which has been allowed by a Co-ordinate Bench of this Court by judgment dated 01.02.2019, Annexure P-4, which deserves to be noticed and is reproduced as under:-

“The petitioners are seeking direction to the respondents to release over time allowance admissible to them after the decision of this Court dated 01.04.2013 rendered in CWP No. 22516-2012 and connected writ petitions, which has further been upheld by Hon'ble the Supreme Court, vide judgment dated 31.01.2017.

On notice of this petition, the respondents are denying the claim of the petitioners on the ground that neither this Court nor the Hon'ble Supreme Court held that the petitioners are entitled to any over time allowance. Further there was no prayer of the petitioners for overtime allowance before this Court as well as before Hon'ble the Supreme Court.

Learned senior counsel for the petitioners on the other hand submits that once the petitioners have been given the benefit of regular pay scale they are also entitled for overtime allowance.

The argument of learned State counsel is rejected as the petitioners were appointed as Conductors in the year 2008, keeping in view Rules of 2004. The petitioners were getting Rs. 2500/- per month then over time was admissible to them of Rs.20.16 and when their pay scale was revised to

Rs.5600+1900+16% DA total Rs.8700/-, the petitioners were entitled to over time allowance of Rs.70.16. The petitioners were granted scale as per Rules of 2004. Once the pay scales have been revised, the competent authority is bound to revise the overtime allowance as well.

Accordingly, the writ petition is allowed and direction is given to the respondents to recalculate the over time allowance on the revised scale, keeping in view the fact that pay scales have been granted to the petitioners w.e.f 01.04.2013. The arrears of over time allowance be given to them after adjusting the payment, within a period of four months from the date of receipt of certified copy of this order.”

8. This judgment has attained finality and in compliance thereof, the respondents have granted the benefit to the counterparts of the petitioners. A specific averment has been made in para 7 and 8 of the writ petition to this effect and it has been pleaded that the petitioners are similarly placed. There is no denial to these facts in the response filed by the respondents.

9. Furthermore, no material could be brought to the notice of the Court to distinguish the case of the petitioners from that of their counterparts.

10. In view of the above, writ petitions are allowed in the same terms as in **Brij Bhushan’s** case (supra). A direction is issued to the respondents to re-calculate the overtime allowance on the revised scale and to disburse the differential amount to the petitioners within a period of four months from the date of communication of a copy of this order.

26.04.2023

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No