

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10485-2023 (O&M)

Date of decision: 16.08.2023

Lokesh Kumar and others

....Petitioners.

Versus

State of Punjab and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Vishal Mittal, Advocate for the petitioners.

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab.

DEEPAK SIBAL, J.

(1) Learned counsel for the petitioners does not press the present petition qua challenge to notification dated 05.09.2016 (Annexure P-3) and restricts his claim to the challenge to the notification dated 15.01.2015, circular letter dated 15.01.2015 (Annexures P-1 and P-2) and notification dated 22.12.2015 (Annexure P-4) through which the State has directed that new recruits like the petitioners shall be paid the minimum basic salary of a pay band (without Grade Pay) as also without any annual increment or allowances except travel allowances and that on confirmation of these employees the period prior to their confirmation shall not be treated as regular service. The petitioners further pray for issuance of directions to the State to release arrears of full salary to them from the date of their appointment till the date of completion of their probation in the applicable pay scale (along with Grade Pay), annual increments and all other allowances etc.

(2) Learned counsel for the petitioners submits that after having not pressed the present petition qua the challenge to the notification dated 05.09.2016 (Annexure P-3) issued by the State Government, the present petition is fully covered in favour of the petitioners by the recent judgment of a Division Bench of this Court dated 16.02.2023 passed in a bunch of petitions in which the lead case was **CWP No. 17064 of 2017–Ajay Kumar Singla and others vs. State of Punjab and others.**

(3) Learned State counsel very fairly does not deny the above assertion.

(4) In the light of the above, the present petition is also allowed in terms of the directions as given in **Ajay Kumar Singla's** case (supra) which are as follows:-

(a) Notification No.7/204/2012-4FP1/60 dt.15.01.2015 having already been quashed in Gurwinder Singh and others (1 supra) and Dr. Vishavdeep Singh and others (4 Supra), there is no need to quash it again;

(b) Clarification No.7/204/2012-4FP.1/166 dt.15.01.2015 and notification GSR.3/Const/Article 309/AMD.(5)/ 2015 dt.22.12.2015 to the extent they held that during period of probation or if increase in such period of probation, only fixed emoluments shall be paid to the employee, which shall be equal to the minimum of pay band of the service or post to which he is appointed and shall not include Grade Pay, Special Pay, Annual Increment or any other allowance except Travelling Allowance AND further directing that the period of probation shall not be treated to be the time spent on the time scale

applicable to his post, are quashed;

(c) Any conditions included in appointment letters issued to petitioners on the basis of the above notifications, are also quashed;

(d) The respondents are directed to grant to the petitioners the regular pay scale along with all other emoluments, allowances etc. from the date of their initial appointment and pay the arrears within three months from today;

(e) The respondents are directed to count the period spent on probation as regular services for the purpose of determination of the total length of service under the Service Rules.

(f) The validity of the notification No. GSR.56/Const./Art.309/AMD.(18)/2016 dt.05.09.2016 issued by the State of Punjab is left open for consideration in an appropriate case.

(5) No costs.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

16.08.2023

Komal

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