

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

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**CWP No.18861 of 1996
Date of Decision : 5.2.2024**

*Rameshwar Kaushish and others**..... Petitioners**versus**The State of Haryana and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Ms. Khyati Avnish, Advocate, for the petitioners

Mr. Rohit Arya, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the instructions dated 19.5.1989, Annexure P-4, and directing the respondents to treat the increments granted to the employees in lieu of their undergoing family planning operations, as part of their basic pay and grant all consequential benefits alongwith arrears thereof.

2. The impugned instructions, dated 19.5.1989, stipulate that the employees who undergo family planning operation/sterilization on or after 29.1.1987 will get a personal pay as per the government policy dated 20.7.1981. It is also stipulated that no DA/ADA would be admissible on this personal pay.

3. The petitioners' claim to treat the increment granted to them in the form of special pay as part of their basic pay, is not supported by any sound reasoning or law on the issue. It is also not disputed that the benefit was granted to the employees in the form of personal pay equivalent to

the amount of increment not to be borne on future increase of pay, if any, on promotion or otherwise. Special pay is an incentive admissible to the employees due to special circumstances, as per terms stipulated which can be altered. In this case it was on account of undergoing sterilization. It is settled law that incentives granted are not a part of the basic pay, as the same are admissible on special terms.

4. In view thereof, there is no merit in the petition, and the same, accordingly, stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

5.2.2024
Ashwani

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