IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(Sr. No. 107+268+270)

(1) **CWP-7242-2023 (O&M)**
Date of Decision : 17.09.2024

Naresh Kumar Goyal and others
...Petitioners

Versus

State of Punjab and others
...Respondents

(2) **CWP-9930-2023 (O&M)**

Gurdas Singh and others
...Petitioners

Versus

State of Punjab and others
...Respondents

(3) **CWP-10216-2023 (O&M)**

Rajwinder Singh and others
...Petitioners

Versus

State of Punjab and others
...Respondents

(4) **CWP-11813-2023 (O&M)**

Ramesh Kumar and others
...Petitioners

Versus

State of Punjab and others
...Respondents

(5) CWP-14963-2023 (O&M)

Gian Chand and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(6) CWP-15044-2023 (O&M)

Krishan Chand and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(7) CWP-19076-2023 (O&M)

Harpal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(8) CWP-17111-2023 (O&M)

Shadi Lal Palial and others

...Petitioners

Versus

Punjab State Power Corporation Limited and others

...Respondents

(9) CWP-17606-2023 (O&M)

Rajwant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

(10) CWP-17626-2023 (O&M)

Raj Kumar Bhagat and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(11) CWP-18117-2023 (O&M)

Vijay Kumar Khanna and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(12) CWP-21675-2023 (O&M)

Sarbjit Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(13) CWP-8258-2023 (O&M)

Daya Krishan and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(14) CWP-8277-2023 (O&M)

Rakesh Adya and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(15) CWP-8876-2023 (O&M)

Ajaib Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(16) CWP-8960-2023 (O&M)

Puran Singh Kataria and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(17) CWP-9003-2023 (O&M)

Charan Dass and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(18) CWP-9014-2023 (O&M)

Jagdish Kumar Bansal and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(19) CWP-9114-2023 (O&M)

Vinod Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(20) CWP-9123-2023 (O&M)

Mohinder Paul and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(21) CWP-9209-2023 (O&M)

Hari Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(22) CWP-9718-2023 (O&M)

Bihari Lal and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(23) CWP-9789-2023 (O&M)

Narinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(24) **CWP-9802-2023 (O&M)**

Ajmer Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(25) **CWP-9824-2023 (O&M)**

Harbans Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(26) **CWP-9847-2023 (O&M)**

Rakesh Adya and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(27) **CWP-9873-2023 (O&M)**

Ajit Ram and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(28) **CWP-9895-2023 (O&M)**

Amarjit Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(29) CWP-9906-2023 (O&M)

Bant Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(30) CWP-5938-2024 (O&M)

Gopal Krishan Bhalla

...Petitioners

Versus

State of Punjab and others

...Respondents

(31) CWP-9910-2023 (O&M)

Basant Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(32) CWP-11739-2023 (O&M)

Kewal Krishan and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate,
Ms. Priya Kaushik, Advocate and
Ms. Preetleen Kaur, Advocate for the petitioners
in CWP-7242-2023.

Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate
for the petitioners in CWP-9930-2023, CWP-11813-2023, CWP-14963-2023, CWP-15044-2023, CWP-19076-2023, CWP-21675-2023, CWP-8960-2023, CWP-9003-2023, CWP-9014-2023, CWP-9209-2023 and CWP-9895-2023.

Mr. Nitesh Singla, Advocate for the petitioners
in CWP-10216-2023, CWP-17111-2023, CWP-17606-2023, CWP-17626-2023, CWP-18117-2023, CWP-8876-2023, CWP-9114-2023, CWP-9123-2023, CWP-9718-2023, CWP-9789-202, CWP-9802-2023, CWP-9824-2023 and CWP-9906-2023.

Mr. Ashish Grover, Advocate for the petitioners in CWP-8277-2023, CWP-9910-2023, CWP-9847-2023, CWP-8258-2023 and CWP-9873-2023.

Mr. Ashutosh Bhardwaj, Advocate for the petitioners
in CWP-5938-2024.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab assisted by Mr. Harpreet Singh, Senior Asstt. Department of Finance, Punjab.

Mr. Akshay Rawal, Advocate
for respondent No. 3 in CWP-9910-2023 and
for respondent No. 6-MC Jalandhar in CWP-8277-2023.

Mr. Abhilaksh Gaind, Advocate for respondent No.4,
MC Ludhiana in CWP-18117-2023 and
for respondent No. 4, MC Ludhiana in CWP-8277-2023.
(Joined through Video Conferencing).

Mr. Kamaldeep Singh Sidhu, Advocate
for respondent No. 5 in CWP-9906-2023.

Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Divij Datt, Advocate
for respondent-Improvement Trust in CWP-9910-2023.

Mr. Charan Jit Sharma, Advocate
for Municipal Council, Sunam in CWP-9824-2023.

Mr. Rishabh Gupta, Advocate
for respondent No.2-PSPCL in CWP-9014-2023.

Mr. S.S. Chatrath, Advocate with
Mr. Rudresh, Advocate and
Mr. Aditya Pratap Duggal, Advocate
for respondent No.7 in CWP-8277-2023.

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__Harsimran Singh Sethi J. (Oral)__

__CM-7211-CWP-2024 in CWP-8277-2023__

Present application has been filed for placing on record affidavit of Mr. Ravinder Singh, Deputy Controller Finance & Audit, Municipal Corporation, Ludhiana on behalf of respondent No. 6.

Application is allowed and aforementioned affidavit is taken on record with all just exceptions.

__CM-7182-CWP-2024 in CWP-18117-2023__

Present application has been filed for placing on record affidavit of Mr. Ravinder Singh, Deputy Controller Finance & Audit, Municipal Corporation, Ludhiana on behalf of respondent No. 4.

Application is allowed and aforementioned affidavit is taken on record with all just exceptions.

__CWP-7242-2023 and other connected cases__

1. By this common order, 32 writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law arising out of similar facts.

2. In the present petitions, the grievance being raised by the petitioners is that they are entitled for the revision of their pay by granting the benefit of Dearness Allowance @ 119% instead of 113% keeping in view the Notification dated 29.10.2021 (Annexure P-4).

3. Learned counsel for the petitioners submits that a particular slab of Dearness Allowance was not made admissible to the employees as well as to the retirees of the Government of Punjab and the Dearness Allowance was granted @ 113% for the period starting from 01.07.2015 to 31.12.2015, hence, the respondents are under obligation to grant the relief of increase in the Dearness Allowance to 119% and thereafter, compute the entitlement of the petitioners for the grant of pension keeping in view the revision of the pay scale, which came into being w.e.f. 01.01.2016, while implementing the Notification dated 20.09.2021 (Annexure P-3).

4. Learned counsel for the petitioners submit that after the filing of the petitions, the respondents accepted the claim of the petitioners for the grant of benefit of Dearness Allowance @ 119% for the period starting from 01.07.2015 to 31.12.2015 but, the consequent benefit in the revision of the pension has not been extended to the petitioners. Learned counsel for the petitioners further submit that once, the Dearness Allowance was increased from 113% to 119% for the period starting from 01.07.2015 to 31.12.2015, then while implementing the Notification dated 20.09.2021 (Annexure P-3), according to which, the pay/pension of the employees was to be revised, wherever the Dearness Allowance has been mentioned as 113%, the same has to be treated as 119% for the grant of benefit.

5. After notice of motion, the respondents have appeared. As per the respondents, after considering all the facts, the State Government decided that the arrears which are to be given to the employees for the period starting from 01.07.2015 to 31.12.2015, the Dearness Allowance is to be treated as 119% and the difference of 6% (119-113) is to be released to the employees concerned.

6. Learned counsel for the respondents on instructions from Mr. Harpreet Singh, Senior Assistant, Finance Department, Punjab, submits that there is no amendment in the Notification dated 20.09.2021 (Annexure P-3), wherein the Dearness Allowance was mentioned as 113%, hence, the petitioners cannot claim any benefit of Dearness Allowance @ 119% qua the Notification dated 20.09.2021 (Annexure P-3).

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. The State of Punjab had issued a Notification dated 20.09.2021 (Annexure P-3) so as to implement the Punjab Civil Services (Revised Pay) First Amendment Rules, 2021 and the same has been brought into operation w.e.f. 01.01.2016. In the said amendment to the Rules, it has been mentioned as to how, the pay of an employee is to be calculated. The relevant portion of the amendment is as under :-

> *"Provided that if the increase in the revised pay fixed under this rule is less than 15% (fifteen percent) over and above what the Government employee was getting as on 31.12.2015 i.e. existing Basic Pay + Dearness Allowance @ 113% (one hundred and thirteen percent), such Government employee shall be*

entitled to minimum increase of 15% (fifteen percent) over and above what the Government employee was getting as on 31.12.2015 i.e. existing Basic Pay + Dearness Allowance @ 113% (one hundred thirteen percent) (See illustration nos. 16 & 17)

Provided further that no arrear shall be given from 1.1.2016 to 30.06.2021 for such enhancement."

9. A bare perusal of the above would show that for calculating the pay, which is also to be taken into account for calculating the pension of an employee, the basic pay and Dearness Allowance as on 31.12.2015 was to be taken into account, wherein the Dearness Allowance @ 113% was mentioned, which was the prevailing Dearness Allowance at the said time i.e. when Notification dated 20.09.2021 (Annexure P-3) was issued. Thereafter, the Government took a conscious decision dated 24.05.2023 (Annexure R-1), wherein, for the period 01.07.2015 onward to 31.12.2015, the rate of Dearness Allowance has been increased from 113% to 119%. Once, for the period mentioned in the Notification dated 20.09.2021 (Annexure P-3), the Dearness Allowance was enhanced from 113% to 119% vide letter dated 24.05.2023 (Annexure R-1), the said rate of Dearness Allowance @ 119% as made effected by the Government of Punjab on 24.05.2023, also has to be implemented qua all the consequential benefits including the Notification dated 20.09.2021 (Annexure P-3).

10. With regard to the submission of the learned counsel for the respondents that the Dearness Allowance @ 119% is admissible only upto 31.12.2015 and not thereafter, it may be noticed that nothing has come on

record to support the said statement. Once, in the fitness of things, the Government of Punjab after due consideration has enhanced the Dearness Allowance from 113% to 119% from 01.07.2015 onward upto 31.12.2015, the Dearness Allowance remains the same even on 01.01.2016. It cannot be said that from July, 2015 to December, 2015, the Dearness Allowance was at 119% but from 01.01.2016 onward, the same will again be reduced to 113%. The Dearness Allowance is given in relation to the inflation and nothing has come on record to show that the inflation only remained from July, 2015 to December, 2015 and inflation got reduced in January, 2016, hence the argument of the learned counsel for the respondents that the Dearness Allowance will remain at 113% for the purpose of Notification dated 20.09.2021 (Annexure P-3) despite the decision of the Government dated 24.05.2023 (Annexure R-1) to grant Dearness Allowance @ 119% for a period prior to 01.01.2016, cannot be accepted.

11. Further, it may be noticed that the Pay Commission had already recommended the enhanced Dearness Allowance @ 119% to be implemented. Though, while issuing the Notification dated 20.09.2021 (Annexure P-3), the same was not accepted and same was kept @ 113%, however, later on the Government in its wisdom decided to accept the recommendation of the Pay Commission vide letter dated 24.05.2023 to grant Dearness Allowance @ 119% starting from 01.07.2015, hence, same has to be made applicable even qua the Notification dated 20.09.2021 (Annexure P-3), otherwise it will create anomaly.

12. Once, the recommendation of the Pay Commission has been accepted by the Government and that too with retrospective effect, the same has to be given effect to qua the other Notifications on the same parameters including the Notification dated 20.09.2021 (Annexure P-3) for all intents and purposes, otherwise, it will create an anomaly that for the purpose of fixation of pay, the Dearness Allowance will be at 119% for the period starting from 01.07.2015 to 31.12.2015 and for the purpose of the grant of pension hence, for a period i.e. on 01.01.2016 the Dearness Allowance will be again reduced to 113%. The rate of Dearness Allowance for all intents and purposes has to remain same in the absence of any material change in inflation rate, hence, the respondents are under obligation to grant the consequential benefit of letter dated 24.05.2023 to grant Dearness Allowance @ 119% even while implementing the Notification dated 20.09.2021 (Annexure P-3).

13. Keeping in view the factual position mentioned here-in-above, the respondents are directed that the decision of the Government dated 24.05.2023 (Annexure R-1) shall also be reflected while implementing Notification dated 20.09.2021 (Annexure P-3) so as to mean that the Dearness Allowance will be @ 119% for computing the pay of the employees as on 01.01.2016 and for the consequent pensionary benefits admissible to employees, who have already retired.

14. Let the respondents re-compute the pay of the petitioners and other similarly situated retirees/employees by giving them the benefit of Dearness Allowance @ 119% keeping in view the Notification dated

20.09.2021(Annexure P-3) and thereafter, re-calculate their pension/ pensionary benefits as well. The enhanced pension will be admissible to the retirees as per the criteria given in the Notification dated 20.09.2021 (Annexure P-3) except with the difference that the Dearness Allowance will be treated as 119% for all intents and purposes. Let the revised pension along with arrears, be extended to the petitioners after recalculating their entitlement as per this order and similarly situated retirees/employees will also be extended the same benefit to be extended within a period of four months of the receipt of copy of this order.

15. Present petitions are allowed in above terms.

16. Pending miscellaneous application, if any, also stands disposed of.

17. A photocopy of this order be placed on the file of connected cases.

September 17, 2024 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes