



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

719

CWP-11393-2006

Date of decision: 18.09.2024

Hawa Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Nischal Chetanya Manchanda, Advocate
for the petitioners.

Mr. Tapan Kumar, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing of the notices and orders dated 12.05.2006 and 14.06.2006, respectively, whereby recovery was to be made, which the Division Bench vide order dated 27.07.2006 had stayed.

2. This case was admitted on 16.08.2007 and ordered to be heard with CWP-4813-2005, which was disposed of on 10.04.2008 alongwith CWP-18601-2006, **Om Parkash and others vs. State of Haryana and others**, against which SLP was dismissed on 02.05.2011, the relevant paras whereof read thus:-

“So far as Annexure P-6, letter dated 22.8.2003 is concerned, the clause envisaging that the Government employee will get one increment for every three ‘actual increments’ earned by the employee in the present scale is against the spirit of Revised Pay Rules, 1998 and ACP Rules, 1998. If the word ‘actual’ is taken into account, in that case, the scheme will itself become redundant as no employee could earn more than ten increments in the present scale and granting increment up to 16th stage would render nugatory. Previous revision of pay scale was made in the year 1986. The original scheme explains the stages in the present scale and not the “actual” increment earned.



Instructions cannot be issued against the statutory rules/schemes. The Hon’ble Apex Court in authority reported as Punjab Water Supply & Sewerage Board Versus Ranjodh Singh and others, 2007(2) Recent Services Judgments 61, has held that executive instructions cannot over-ride the statutory rules. So, the word incorporating ‘actual’ in Annexure P-6 being executive instructions against the statutory Revised Pay Rules, 1998 and ACP Rules, 1998 cannot be held to be valid and the same stand struck off.

Learned counsel for the petitioners has further submitted that no recovery could be ordered from the petitioners as there is no fraud or lapse on the part of the petitioners. The said prayer has been opposed by Mr. Hooda. However, that plea needs no adjudication as it has been held that no recovery could be made from the petitioners.

In view of above discussion, Annexures P-6 and P-7 stand quashed and the order withdrawing the increments from the petitioners on the basis of Annexure P-6, also stands quashed. It is further ordered that no recovery, on the basis of letter dated 22.8.2003, Annexures P-6 and P-7, from the petitioners be made. If any amount, is recovered from any of the petitioners on account of re-fixation of pay, on the basis of Annexure P-6, the same be refunded to the respective petitioners within six months from today.

Therefore, all the above mentioned Civil Writ Petitions stand disposed of in the terms stated above.”

3. Learned State counsel is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Om Parkash** (supra).

(AMAN CHAUDHARY)
JUDGE

18.09.2024
Hemant

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No