

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

107

2024:PHHC:015434-DB

**LPA Nos.857, 887, 888, 1029, 1153,
1171, 1179 and 1002 of 2023 (O & M)**
Date of Decision: 05.02.2024

State of Haryana and others

.....Appellant(s)

Versus

Joginder Pal and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Deepak Balyan, Addl. A.G., Haryana.

Dr. Rishipal Singh, Advocate,
for respondent Nos.1 to 44 (in LPA-857-2023).

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

Refiling Applications

1. Applications for condonation of delay of 57-105 days in refiling the appeals are allowed, in view of the averments made in the applications.
2. Delay of 57-105 days in refiling the appeals is condoned.
3. CMs stand disposed of.

Filing Applications

4. Applications for condonation of delay of 14-105 days in filing the appeals are allowed, in view of the averments made in the applications.
5. Delay of 14-105 days in filing the appeals is condoned.
6. CMs stand disposed of.

Main Cases

7. The present judgment shall dispose of eight appeals i.e. LPA Nos. 857, 887, 888, 1029, 1153, 1171, 1179 and 1002 of 2023 since all the appeals arise out of the common order dated 08.02.2023 passed by the Single Judge

2018, Gurinder Pal and others vs. State of Haryana and others. Reference is being made to ***LPA-857-2023, State of Haryana and others vs. Joginder Pal and others.***

8. CWP-30286-2018 was allowed and directions were issued to the respondents to grant the arrears of difference of over time allowance to the petitioners therein in un-revised and revised pay scales for the period from 01.01.2016 to 31.03.2017 within a period of 4 months from the date of receipt of certified copy of the order. In case any amount had been recovered in pursuance to the office order dated 01.02.2022 (Annexure P-1), the same was to be refunded within the aforesaid period. The appellants have also been fastened with the liability of interest @ 6% per annum on the differential amount from the date it became due on account of the fact that the matter stood settled on an earlier occasion by a Division Bench of this Court in ***LPA-858-2009, The General Manager, Haryana Roadways, Chandigarh vs. Azad Singh and others*** decided on 23.03.2011.

9. The petitioners had filed writ petition seeking the writ in the nature of mandamus directing respondents to grant/release the arrears of overtime allowance from 01.01.2016 to 31.10.2016 in unrevised and revised pay scale alongwith interest. Apparently, the claim as such was based on the earlier policy dated 01.02.2002 itself whereby a Committee of the officers had been constituted for the purposes of granting overtime allowance whereby, a decision was taken that overtime from the month of October, 2001 was to be paid in the month of November, 2001 and the instructions were to come w.e.f. 01.10.2001.

10. The stand of the State in the written statement was that instructions dated 03.02.2010 (Annexure R-5) had been issued that there would be no arrears to be paid on the basis of revised pay. Similarly, reliance was placed upon an

order dated 11.09.2019 (Annexure R-1) passed by the State during the pendency of the writ petition wherein, a decision was taken that no arrears of overtime allowance will be paid on the basis of revision of pay for which only arrears had been given. The overtime allowance on the revised pay will be admissible from the date of notification i.e. 28.10.2016 on the revised pay while falling back on the earlier instructions dated 03.02.2010 (Annexure R-5).

11. The said issue apparently was considered by the co-ordinate Bench in *Azad Singh's case (supra)* wherein overtime allowance had been given for the period from 01.01.1996 to 31.12.1997 by the Labour Court wherein an application under Section 33-C(2) of the Industrial Disputes Act, 1947 had been filed. The same was in pursuance of an overtime policy dated 23.07.1985 which was apparently superseded by the policy dated 01.02.2002 (Annexure P-1 herein). Resultantly, the Division Bench came to the conclusion while upholding the order of the Single Judge that Section 26 of the Motor Transport Workers Act, 1961 provided the right to overtime allowance and which was a statutory right. In such circumstances, the order of the learned Single Judge was upheld while noticing in the said case that the notification had been issued on 01.01.2008 revising the pay scale of the employees and the revision had been effected from 01.01.1996 and, therefore, the overtime allowance was to be permissible.

12. In the present case also, we have noticed that a revision of pay had been done from 01.01.2016 vide notification dated 28.10.2016 (Annexure P-2) but arrears had not been granted and, therefore, the same principle as such would be applicable.

13. In such circumstances, we do not find any plausible ground to interfere in the well reasoned order dated 08.02.2023 passed by the Single Judge

wherein, he decided eight writ petitions, lead case of which was CWP-30286-2018, wherein he had placed reliance upon the binding precedent of the co-ordinate Bench in *Azad Singh's case (supra)*. It is also not disputed that the judgment in the said case was not interfered with by the Apex Court as it is itself pleaded by the State in its appeal in ground 5(iii).

14. Accordingly, the present appeals stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

05.02.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No