

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
Neutral Citation No. 2024:PHHC:054453-DB

(105) LPA-1582-2023 (O&M)

State of Haryana and othersAppellant(s)

Versus

Sanjeev Kumar and othersRespondent(s)

(2) LPA-586-2024 (O&M)

State of Haryana and othersAppellant(s)

Versus

Vikram Kumar and othersRespondent(s)

(3) LPA-593-2024 (O&M)

State of Haryana and othersAppellant(s)

Versus

Anil Kumar and othersRespondent(s)

(4) LPA-84-2024 (O&M)

State of Haryana and othersAppellant(s)

Versus

Vinod Kumar and othersRespondent(s)

Decided on : 23.04.2024

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

Present:- Mr. Deepak Balyan, Addl. AG, Haryana.

Mr. Parveen Moudgil, Advocate for respondent Nos.1 to 23
(in LPA-84-2024).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1442-LPA-2024 in LPA-586-2024

CM-1462-LPA-2024 in LPA-593-2024

CM-211-LPA-2024 in LPA-84-2024

Applications for condonation of delay of 72 days to 228 days in re-filing the appeals, are allowed, in view of the averments made in the applications, duly supported by affidavit.

Delay of 72 days to 228 days in re-filing the appeals is condoned.

CMs stand disposed of.

CM-1444-LPA-2024 in LPA-586-2024

Application for condonation of delay of 5 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 5 days in filing the appeal is condoned.

CM stands disposed of.

Main cases (O&M)

1. Present letters patent appeals are directed against the judgment of the learned Single Judge dated 26.04.2023 and 01.05.2023. The learned Single Judge firstly decided 5 writ petitions, lead case of which was **CWP No.1067 of 2020 ‘Baljit Singh and others Vs. State of Haryana and others’** and granted the benefit to the writ petitioners, in view of the judgment passed in **CWP No.3005 of 2018 ‘Brij Bhusan and others Vs. State of Haryana and others’** decided on 01.02.2019. The dispute was regarding the overtime allowance on the revised pay scales. Keeping in view the fact that similar benefits had been granted to the writ petitioners w.e.f. 01.04.2013 in that case, the learned Single Judge had noticed that the judgment had attained finality and respondents had granted the benefits to the counter-parts and there was

specific averment made in paragraph No.7 & 8 of the writ petition to which there was no denial, the writ petitions were allowed.

2. **LPA-84-2024** is directed against the judgment dated 01.05.2023 passed in **CWP No.413 of 2021 ‘Vinod Kumar and others Vs. State of Haryana and others’** wherein reliance was placed upon the first decision dated 26.04.2023 passed in **Baljit Singh (supra)** while granting the similar relief.

3. Counsel for the State very fairly pointed out that a similar order passed in **CWP No.30286 of 2018 ‘Gurinder Pal and others Vs. State of Haryana and others’** decided on 08.02.2023 has also been upheld in bunch of appeals, lead case of which was **LPA-857-2023 ‘State of Haryana and others Vs. Joginder Pal and others’**, decided on 05.02.2024 by us. A perusal of the said order would go on to show that we had also relied upon earlier decision dated 23.03.2011 passed in **LPA-858-2009 ‘The General Manager, Haryana Roadways, Chandigarh Vs. Azad Singh and others’**. The reasoning given in the order dated 08.02.2023 passed in **Joginder Pal (supra)** reads as under:-

“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.”

4. Keeping in view the above, the present appeals also have to meet the same fate of dismissal.

5. Ordered accordingly.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

23.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No