

2025.PHHC.145654



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RESERVED ON:09.09.2025
PRONOUNCED ON: 24.10.2025

1. CWP-21825-2014

B.K.GUPTA AND ANR.

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

AND

2. CWP-4853-2020

RAKESH KUMAR ANEJA AND ORS.

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ishnoor Singh, Advocate
for the petitioners in CWP-21825-2014.

Mr. Jawinder Singh Rana, Advocate for
Mr. S.K.Malik, Advocate for the petitioner(s)
in CWP-4853-2020.

Mr. R.D. Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J

Vide this common order, this Court shall dispose of above mentioned two writ petitions as common question of facts and law is involved therein.

For the sake of convenience, the facts are being taken from

CWP-21825-2014.

By way of the writ petition bearing CWP No.21825-2014 petitioners namely Mr. B.K. Ghupta and Mr. R.K. Sharma are seeking quashing of impugned orders dated 13.12.2013 (Annexure P-10) and dated 04.07.2014 (Annexure P-28) with further prayer for issuance of a writ in the nature of *Mandamus* directing the respondents to re-fix the pay of the petitioners and also to pay recovery along with interest of 2% per month w.e.f. 01.11.2012 till actual date of its realization and also to merge the advance increment in the basic pay as per the latest instructions of the government and further to release arrears with all benefits.

By way of another writ petition bearing CWP No.4853-2020 petitioners are seeking quashing of impugned order dated 21.12.2018 (Annexure P-5B) with further prayer for issuance of a writ in the nature of *Mandamus* directing the respondents to grant the benefits of two advance increments by merging it in the annual increment in view of judgment of Priya Sood's case and then to re-fix their pay and further to release the benefits.

2. Facts

The petitioner(s) joined the Irrigation Department, Haryana, as a Junior Engineer (J.E.) on 27.01.1982. During service, he acquired higher qualification AMIE, equivalent to B.E., in December 1986. He retired on 31.10.2012 at the age of 58, as per government policy. One R.K. Sharma, a retired Junior Engineer, joined the department on 27.09.1973, acquired AMIE in June 1982, and retired on 31.12.2005 at age 58. The Finance Department, Government of Haryana, issued Notification No. 6/144/4PR

(FD)-87 dated 27.01.1992 revising pay scales of Junior Engineers. It provided for two advance increments for those acquiring AMIE or equivalent degrees, subject to completion of five years of regular satisfactory service. The Irrigation Department initially granted these two advance increments at Rs. 60/- or Rs. 75/- as per the pay scale. However, confusion arose in some field offices regarding whether these increments were to be merged into basic pay and whether Dearness Allowance (DA) was applicable on them. On 07.09.1992, the Diploma Engineers Association met the Engineer-in-Chief, who agreed that the increments were part of pay and DA was applicable. A letter dated 30.09.1992 confirmed this. However, this instruction was later withdrawn unilaterally by the Engineer-in-Chief on 08.01.1993, without consulting the Association. The Finance Department revised the J.E. pay scale to Rs. 6500-200-8500-EB-200-9900 as of 01.01.1996, with increments of Rs. 200/-. Prior to this, increments were Rs. 60/- or Rs. 75/-. Junior Engineers who acquired higher education before 01.01.1996 were granted Rs. 400/- per month. The petitioner(s) faced financial hardship due to discrepancies in increments. In 2006, the then Executive Engineer revised personal pay from Rs. 60/- or Rs. 75/- to Rs. 200/-, but withdrew the two advance increments benefit from R.K. Sharma (from 09.08.2002 till retirement on 31.12.2005) without notice, due to misunderstanding of government instructions. Recovery of Rs. 1,911/- was made from Sharma's dues. The Financial Commissioner & Principal Secretary, Haryana, clarified the grant and discontinuation of the two advance increments vide U.O. No. 2/38/2002-3PR (FD) dated 10.08.2006.

Subsequent circulars and clarifications were issued by the Finance

Department on 30.08.2011 and Additional Chief Secretary, Irrigation Department on 15.01.2013, affirming that the increments should be merged in basic pay without affecting the date of the next annual increment. Despite these instructions, the petitioner(s) pay was not re-fixed accordingly. The Executive Engineer of Karnal Water Services Division withdrew two advance increments benefits and made a recovery of Rs. 17,640/- from petitioner(s) final dues without prior notice or grounds. The petitioner(s) filed representations and a legal notice for implementation of government instructions. The Executive Engineer failed to comply. The petitioners challenged the recovery order dated 13.12.2013 before the Hon'ble High Court (CWP No. 5886 of 2014). The Court directed the respondents to decide the representation within three months. The respondents rejected the petitioners' claim stating that the grant of increments was a clerical error, and no valid office order existed. The petitioner(s) contended that the increments were granted through official orders, with payments duly received and verified by multiple officials, hence not a clerical mistake. Other Junior Engineers and employees, including those in Haryana State Agriculture & Marketing Board, have been granted these increments following the same government instructions. Past cases have seen restoration of similar increments on court direction.

3. Contentions

On behalf of the petitioner(s)

Learned counsel for the petitioner(s) respectfully submits that the petitioner(s), having initially joined the Department in the capacity of Junior Engineer, subsequently acquired the qualification of A.M.I.E., which

is recognized as equivalent to a B.E. degree. In light of this, the petitioner(s) became entitled to the grant of two advance increments in accordance with the Finance Department Notification dated 27.01.1992, subject to the condition of satisfactory service.

It is submitted that the said increments initially quantified at Rs. 60/- or Rs. 75/- were duly sanctioned and treated as part of the basic pay, with Dearness Allowance (DA) admissible thereon, as affirmed by the Engineer-in-Chief and through subsequent official communications. The increments were implemented in a consistent manner and were merged into the basic pay of the petitioner(s) without affecting the due date of their next annual increment, a position further clarified by Finance Department circulars dated 30.08.2011 and 15.01.2013, as well as communications from the Additional Chief Secretary, Irrigation Department.

Learned counsel further contends that the subsequent withdrawal of these increments without prior notice or the existence of cogent or lawful grounds and the recovery of an amount of Rs. 17,640/- from the petitioners' final dues, is manifestly arbitrary, illegal, and in violation of principles of natural justice. It is submitted that the petitioner(s) raised timely objections and submitted representations before the appropriate authorities. Furthermore, pursuant to directions issued by this Court, the matter was to be decided within a stipulated time frame. However, the respondents rejected the claim of the petitioner(s) on the erroneous premise that the grant of increments was the result of a clerical error and that no valid office order existed for the same.

It is submitted that the grant of said increments was not

inadvertent or erroneous but was made in pursuance of valid and subsisting government instructions/orders. The petitioner(s) had duly drawn the arrears in respect of the said increments, which were verified and sanctioned by competent authorities over an extended period, thereby ruling out any inference of clerical error.

Moreover, the other similarly situated Junior Engineers and employees in comparable departments such as the Haryana State Agriculture & Marketing Board have been consistently granted the benefit of two advance increments under similar circumstances, without any impact on the due date of their subsequent annual increments. Hence, the petitioners are legally entitled to the retention of the two advance increments granted to them, which stood merged into their basic pay without prejudice to the date of their next annual increment. Accordingly, the impugned action of withdrawal and recovery deserves to be quashed, and the petitioner(s) are entitled to all consequential benefits arising therefrom.

On behalf of the respondent/State of Haryana

Learned counsel for the respondents has submitted that in the present case the petitioners were not higher qualified at the time of entry into service as Junior Engineer in the Department. It is submitted that the petitioners have acquired AMIE qualifications from different institutions during their service. Pursuant to the Haryana Government notification dated 27.01.1992, two advance increments were granted to Junior Engineers who acquired AMIE or equivalent degrees, subject to a minimum of five years of regular and satisfactory service. Accordingly, the petitioners were allowed advance increments at the rates prevailing at that time, i.e., Rs. 120/- (two

increments of Rs. 60/-) for Mr. B.K. Gupta and Rs. 150/- (two increments of Rs. 75/-) for Mr. R.K. Sharma, and at no point were they entitled to or granted increments of Rs. 200/- as alleged.

It is further contended that due to a clerical error, in the salary bill for the month of July 2006 of Mr. B.K. Gupta erroneously reflected advance increments of Rs. 200/-, which he drew until February 2012. Upon discovery of this mistake following Mr.B.K. Gupta's application for pay refixation in January 2012, the excess amount of Rs. 17,640/- was rightly recovered from his retiral benefits. The respondents maintain that the merger of the two advance increments into the basic pay of the petitioners was carried out in compliance with government instructions dated 30.08.2011, with verification by the Accounts Officer Karnal.

Regarding Mr. R.K. Sharma, it is stated that the benefit of two advance increments was withdrawn with effect from 09.08.2002 in compliance with Finance Department Haryana letters dated 08.07.2003, but was subsequently restored in 2013. The respondents further assert that the petitioners were aware that they were not entitled to the higher increments of Rs. 200/-, and the recovery of any excess payments was justified. They also submit that representations made by the petitioners were duly considered; the claim of Mr. B.K. Gupta was rejected by a reasoned order dated 03.07.2014, whereas Mr. R.K. Sharma did not submit any representation but his pay refixed in accordance with instructions.

Additionally, the respondents deny any entitlement of the petitioners to invoke the extraordinary writ jurisdiction as no fundamental

rights have been violated. They also emphasize that the Haryana State Agriculture & Marketing Board is a separate entity, and the rules applicable there are not binding on the Irrigation Department. In light of these facts and compliance with government orders, the respondents contend that the petition lacks merit and deserves dismissal.

Learned counsel for the respondents further submits that petitioner No. 1 in CWP-4853-2020, Mr. Rakesh Kumar Aneja, pursued his AMIE qualification through correspondence. Mr. Ishwar Singh Chahal-petitioner No.2 in CWP-4853-2020 having completed over five years of service, was granted two advance increments for acquiring AMIE, as per Finance Department clarification dated 30.08.2011. Similarly, Petitioner No. 3, Mr. Devender Kumar, obtained his B.E. degree on a regular basis with due departmental permission and was granted two advance increments as Personal Pay, in line with instructions dated 27.01.1992.

It is submitted that the department allows two years of Higher Study Leave with full pay and allowances for employees acquiring qualifications like B.E. through regular mode. This is an incentive to encourage in-service employees to enhance their technical qualifications for promotional avenues such as SDE, Executive Engineer, and Superintending Engineer.

However, the Chief Secretary's memo dated 17.01.2018 (Annexure R-1) makes it clear that, following the Council of Ministers' decision dated 26.10.2016, incentives for acquiring higher qualifications are withdrawn unless specifically provided in the relevant service rules. It was further decided that no employee can claim a higher pay scale based on a

higher qualification acquired during service or beyond the entry-level requirement.

The applicable Service Rules of 1998 for Junior Engineers in Haryana do not provide for additional increments for acquiring B.Tech or AMIE, except for two advance increments after five years of service, which are adjustable against annual increments.

In compliance with the order dated 21.08.2018, the respondents have duly considered the petitioners' claim and passed a speaking order dated 21.12.2018 (Annexure P-5/B). The comparison with judicial officers is misplaced as their service rules and conditions are not identical to those of the petitioners. Hence, the petitioners' claim has been rightly rejected.

4. Analysis

Upon careful consideration of the facts, documents on record, and the respective contentions advanced by the parties, this Court finds merit in the claim of the petitioner(s). The issue revolves around the legality and sustainability of the withdrawal of two advance increments granted to Junior Engineers upon acquiring the AMIE qualification and the consequent recovery of monetary amounts from their retiral dues without affording prior notice or opportunity of hearing.

It is an undisputed fact that the Finance Department, Government of Haryana, vide Notification dated 27.01.1992, had laid down a specific incentive scheme granting two advance increments to Junior Engineers who acquired higher technical qualifications such as AMIE (equivalent to B.E.), provided they had completed five years of satisfactory service. The petitioner(s) duly acquired the requisite qualification in

December 1986 during service and met the stipulated conditions. The grant of these increments was, therefore, in line with a valid and subsisting government policy dated 27.01.1992 (Annexure P-1), and not an ad hoc or unauthorized act. Reliance may be drawn from the judgment of this court in **“Rakesh Kumar Krail v. State of Punjab 2021(1) SCT 553”**, wherein it was categorically held as follows:

“19. Still Further, the phrase used in the Rules is "a Degree in Engineering from any University or Institution". In the Rules, there is no requirement that Degree in Engineering should be a Bachelor's degree of engineering. Thus, the Rules itself require that a Degree in Engineering, may be from any University or Institution. Once the AMIE examination has been held to be a statutory qualification in the field of Engineering, it would not be appropriate for this Court to shy away from recognizing the AMIE qualification at par with a Degree in Engineering for the purpose of promotion.”

The petitioner(s) were granted the benefit of two advance increments through official processes. These increments were implemented, merged into basic pay, and paid regularly over several years. Such disbursement was done after verification by competent authorities, and the amounts formed part of their salary structure. The recovery effected later, on the alleged ground of “clerical error” or absence of formal sanction, appears to be contrary to the factual and administrative record.

The stand of the respondents that the grant of increments was a clerical mistake is untenable. Increments were reflected consistently in salary slips, duly audited and passed by the concerned authorities. If at all there was any administrative lapse, the burden of such error cannot be shifted onto the petitioner(s), especially after prolonged compliance with official instructions.

The unilateral withdrawal of financial benefits and recovery of a sum of Rs. 17,640/- from the retiral dues of the petitioner(s) without issuing any show cause notice or granting an opportunity of hearing constitutes a gross violation of the principles of natural justice. It is trite law that any recovery from an employee's legitimate dues must be preceded by due process.

In view of the settled position of law as enunciated by this court in ***Rakesh Kumar Krail v. State of Punjab, 2021(1) SCT 553***, it is evident that the qualification of A.M.I.E stands recognized as a statutory and valid qualification equivalent to a Degree in Engineering. Once A.M.I.E has been judicially acknowledged to be at par with a Degree in Engineering, any discrimination in extending the same benefit to similarly situated employees possessing the A.M.I.E qualification would be arbitrary and violative of the principles of equality enshrined under Article 14 of the Constitution of India when the state itself by (Annexure P-1) has decided to extend the same.

Furthermore, when departments such as the Haryana State Agriculture & Marketing Board have already extended the benefit of two advance increments to their employees under the same notification (Annexure P-1) without subsequent withdrawal, it evidences a clear and consistent recognition of A.M.I.E as an equivalent qualification. Therefore, the petitioners herein, being identically situated, are entitled to parity of treatment. Denial of such benefit to them, while granting it to employees of other departments under identical circumstances, cannot withstand judicial scrutiny and would amount to hostile discrimination.

Moreover, in the realm of service jurisprudence, the principles of parity and non-discrimination are of fundamental importance. Any selective denial of benefits without a reasonable or justifiable basis constitutes a violation of Article 14 of the Constitution of India. The doctrine of "equal pay for equal work", as consistently upheld by the Supreme Court, mandates that employees performing identical or substantially similar duties under the same employer must be treated alike in matters of pay and service benefits. In the present case, it is pertinent to note that one Shri Ved Singh, S.D.O. in the same department, was granted the benefit of two advance increments upon acquiring the A.M.I.E qualification during service. Therefore, denial of an identical benefit to the petitioner(s), despite being similarly situated, not only infringes the equality clause enshrined under Article 14 but also militates against the constitutional mandate of fairness and uniformity in public employment. In support of the above reliance can be placed on Apex Court judgment rendered in the case of ***“Harbans Lal v. The State of Himachal Pradesh, 1989 (4) SCC 459”*** wherein it was observed as under:

The discrimination complained of must be within the same establishment owned by the same management. A comparison cannot be made with counterparts in other establishments with different management, or even in establishments in different geographical locations though owned by the same master. Unless it is shown that there is a discrimination amongst the same set of employees by the same master in the same establishment, the principle of "equal pay for equal work" cannot be enforced.

The Finance Department and the Irrigation Department issued multiple clarifications (notably on 30.08.2011 and 15.01.2013), reaffirming that the two advance increments were to be merged into the basic pay and

were to be treated as part of regular salary for all purposes, including DA. The respondent-State, therefore, cannot now turn around and contend that such increments were irregularly or erroneously granted, especially in the absence of any policy reversal prior to the retirement of the petitioner(s).

The contention of the respondents that revised service rules or later policy decisions (such as the Chief Secretary's Memo dated 17.01.2018 following the Cabinet decision of 26.10.2016) disallow such increments is of no relevance to the present case, since the petitioner(s) acquired the qualification and were granted the increments well before these policy changes came into effect. Benefits already accrued under existing and valid instructions cannot be retrospectively withdrawn.

5. Conclusion

In view of the above analysis, this Court is of the considered opinion that the two advance increments granted to the petitioner(s) under the Finance Department's notification dated 27.01.1992(Annexure P-1) were legally sanctioned, duly verified, and implemented in accordance with the policy in force. The unilateral withdrawal of these increments and the recovery of Rs.17,640/- from the retiral dues of the petitioner(s) is arbitrary, illegal, and violative of the principles of natural justice. The impugned orders passed by the respondent authorities rejecting the petitioner(s)' claim are unsustainable in law and are accordingly set aside.

The petitioner(s) are held entitled to the restoration of the two advance increments, along with all consequential monetary and pensionary benefits. The amount recovered from the petitioner(s) shall be refunded with interest at 6% per annum, calculated from the date of recovery until the date

of payment. The respondents are directed to re-fix the pay and pensionary benefits of the petitioner(s) in accordance with the said increments within a period of three months from the date of receipt of a certified copy of this judgment.

Both the petitions are accordingly allowed in the above terms.

A copy of this order be placed on the file of another connected petition.

Date: 24.10.2025

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking or not : Yes/No
Whether reportable : Yes/No