



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

222

CWP-5207-2019

Date of decision: 22.01.2025

Honey Bansal and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K. Arora and Mr. Jugam Arora, Advocates
for the petitioners.

Mr. Swapan Shorey, DAG, Punjab.

Mr. M.S. Virk, Advocate for
Dr. Puneet Kumar Sekhon, Advocate for respondent No.4.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for challenging the orders dated 18.04.2017 (Annexure P-11), 29.05.2018 (Annexure P-16) and 05.07.2018 (Annexure P-17) whereby the claim of the petitioners for extending them benefit of pay protection has been rejected.

2. Learned counsel submits that the petitioners had applied for appointment to the post of Clerk-cum-Data Entry Operators in the Guru Nanak Dev University, Amritsar pursuant to the advertisement dated 27.11.2015, Annexure P-3, Clause 10 whereof specifies that salary provisions would be governed by the instructions dated 15.01.2015 issued by Finance Department (Finance Personnel 1 Branch), Govt. of Punjab. The Instructions applied to candidates who were already employed in semi-government Organizations, Corporations, Boards, Autonomous Bodies, and similar entities. The statutory Rule 4.4 (b) of the Punjab Civil Services Rules, Vol.1 Part 1, provides for pay protection to those, who were holding a permanent post in a body, incorporated or not, which is wholly or substantially owned or controlled by the Govt. on an identical time scale. The petitioner being employees of the University prior to the appointment with the State Govt. were holding permanent posts in an identical pay scale



as that of the post to which they were appointed, therefore, were entitled for pay protection. He further contends that a similar benefit was granted to one, Aman Deep, son of Harbans Lal, who was working as a Junior Assistant at Guru Nanak Dev University and was appointed as a Lecturer in the Punjab Education Department on 20.11.2015 and that their entitlement to pay protection stems from the advertisement issued prior to the implementation of the instructions dated 07.11.2017, which is the basis for denying them pay protection w.e.f 31.01.2016, while the Advertisement was issued on 07.11.2015 and as per law laid down in **Sant Ram Sharma vs. State of Rajasthan**, 1967 SCCOnLine SC 16, and in **State of Haryana vs. Shamsher Jang Bahadur** (1972) 2 SCC 188 that administrative instructions cannot override the statutory rules. Reliance is placed on **Ram Gopal vs. State of Punjab** 1994(1) S.C.T. 444 and **Beant Singh Bedi vs. State of Punjab and others** 1991(6) SLR.

3. The aforesaid facts having been brought out, during the course of hearing, learned State counsel, on instructions, states that the respondents would not be averse to have a relook at the matter and decided afresh within a period of 6 months by passing a speaking order, taking note of the aforesaid submissions and judgments, which satisfies the learned counsel for the petitioners.

4. The matter stands disposed of accordingly and if the petitioners are found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to their interest, the same may be passed after granting opportunity of hearing to them and shall contain reason, whereupon they shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

22.01.2025

Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No