IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14750 of 2015
Date of Decision: 25.01.2018

OM PARKASH AND ORS ....Petitioner

Versus

STATE OF HARYANA AND ORS ....Respondents

CORAM:HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Satya Vir Singh Yadav, Advocate
for the petitioners.

Mr. Rohit Arya, AAG, Haryana.

Mr. Sapan Dhir, Advocate
for respondents No. 3 and 4.

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P.B. BAJANTHRI, J.(Oral)

On 16.01.2018 the following order was passed:

Crux of the matter in the present petition is that while implementing Shetty Commission Report in respect of extending advance increment to judicial employees w.e.f. 1.4.2003 whether annual increment which is due to an employee is to be given or it has to be postponed is the issue. For example in the case of one Shri Sunder Lal who has been extended the benefit of advance increment on 1.4.2003 who was in the pay scale of Rs.5000-7850 and as on that date he was drawing pay of Rs.6350/-. Due to grant of advance increment, his pay was enhanced from Rs.6350 to Rs.6500. If Sunder Lal is entitled to annual increment in the year 2003, whether it has been extended or not. If it is not extended, respondents have to apprise this Court as to why annual increment which is

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due to Sunder Lal has not been extended and so also relevant provision to postpone his annual increment which is due to him be made known on the next date of hearing.

List this matter on 25.01.2018.

A photocopy of this order be placed on the files of connected

Learned counsel for the respondent relying on Haryana Civil Services (Pay) Rules, 2016 in respect of definition of advance increment under Sub Rule 3 of Rule 8 which reads as under:

'"advance increment" means the increment(s) granted by the competent authority to a Government employee in advance to be subsumed in future increment(s).'

There it was contended that in view of the definition of advance increment grievance of the petitioner is not maintainable. Learned counsel for the respondent's above contention cannot be accepted for the reasons that any increment paid with reference to Haryana Civil Services Pay Rules, 2016 is different from implementation of Shetty Commission report to the extent of the increment and not advance increment. Perusal of the Shetty Commission report it is crystal clear that it speaks of only increment. Therefore, respondents are mixing up the issue with Shetty Pay Commission recommendation and Pay Rules 2016 may not be correct. Thus, annual increment which is due to the petitioner as and when the same shall have to be extended under the respective State Service Rules without taking into the grant or increment which has been extended while implementing the Shetty Commission report . Perusal of the record, it is evident that some of the petitioners have been extended the benefit of increment while implementing Shetty Pay Commission at the same time even though they are entitled for annual increment at appropriate time the same has been postponed on account of extending the benefit of increment under the Shetty Pay

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Commission. There is no provision either in the Shetty Pay Commission or in the State Service Rules for postponing of the annual increment which is due to an employee. Therefore, postponement of the annual increment of the petitioner resulted in financial loss to each of the petitioner who have been extended the benefit of Shetty Pay Commission increment as well as annual increment which were due in accordance with the State Service Rules.

Accordingly, communication dated 19/20.10.2011 (annexure P-5), 14.03.2013 and 12.09.2013 are set aside. Concerned respondent is hereby directed to extend the benefit of annual increment with reference to the State Services Rules as and when it was/is due to each or the petitioner further, refix their pay and so also calculate arrears of pay and disburse the same within a period of four months from today.

At this stage, learned counsel for the petitioners submitted that some of the petitioners have not been extended the benefit of Shetty Pay Commission increment. In that event if those petitioners approaches concerned respondent, concerned respondent is hereby directed to verify whether such a those petitioners are entitled to Shetty Pay Commission increment or not if they are otherwise eligible increment shall be extended and monetary benefits shall be disbursed within the time limit stipulated above.

[P.B. BAJANTHRI]
JUDGE

January 25, 2018
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Whether speaking/reasoned yes/no
Whether reportable? yes/no

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