



101-4 cases

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

Date of Decision:06.11.2025

RA-CW-86 of 2016 in CWP- 15670 of 1993

UPINDER LAMBA

---Petitioner

VS

CHD ADMN. & ORS

---Respondents

RA-CW-87 of 2016 in CWP- 320 of 1994

JOGINDER KAUR OBEROI

---Petitioner

VS

CHD ADMN. & ORS

---Respondents

RA-CW-103 of 2016 in CWP- 15671 of 1993

JOGINDER KAUR CHUG

---Petitioner

VS

UT OF CHD. & ORS

---Respondents

RA-CW-104 of 2016 in CWP- 16642 of 2001

UPINDER KAUR LAMBA

---Petitioner

VS

STATE OF PUNJAB & ORS

---Respondents



CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Lokesh Aggarwal, Addl. Standing Counsel
Mr. Rakesh Sobti, Addl. Standing Counsel
for the applicant-Chd. Administration
Mr. Karanjeet Singh, Advocate
for Mr. Amar Vivek Aggarwal, Advocate
for the non-applicant(s)-petitioner(s)
Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. By this common order, above-mentioned review applications (RA-CW-86 of 2016 in CWP- 15670 of 1993, RA-CW-87 of 2016 in CWP- 320 of 1994, RA-CW-103 of 2016 in CWP- 15671 of 1993 and RA-CW-104 of 2016 in CWP- 16642 of 2001) are hereby adjudicated as common questions of law and facts are involved.
2. The applicant-respondent through instant review applications is seeking review of order dated 12.11.2014.
3. The order dated 12.11.2014 was passed by this Court in the absence of U.T.Administration though reply of U.T.Administration was on record.
4. For the reasons assigned in the application and in view of arguments advanced by both sides, applications are allowed.

Main case

5. The petitioner (in CWP- 15670 of 2016) through main petition under Article 226 of the Constitution of India sought setting aside of order dated 05.11.1993 whereby respondent withdrew benefit of 'Next Below Rule' till further orders.
6. The petitioner was brought to UT Administration w.e.f. 01.05.1968 on deputation. She was assigned designation of Lecturer by



State of Punjab w.e.f. 16.03.1968. She continued to work with UT Administration as Mistress. In view of representations of employees who were working with UT Administration on deputation; Education Department, Chandigarh Administration vide order dated 25.01.1993 decided to extend benefit of 'Next Below Rule' to the petitioner. It was ordered that pay of the petitioner would be revised w.e.f. 16.03.1968 on notional basis though w.e.f. 01.01.1993 on actual basis. Order dated 25.01.1993 reads as:-

“ Order

In pursuance of the orders of Punjab Govt., Haryana Govt./ Himachal Govt. Education Department(s), the following officials borne on the teaching cadre of the Schools, who are working on deputation in connection with the affairs of U.T., Chandigarh since 1.11.1966 or from any other subsequent date and were promoted to higher ranks by their parent State(s) from time to time are hereby given the benefit of 'Next Below Rule under Rule 4.13 of Punjab Civil Services Rule, Volume-I, Part-I. Consequently they are allowed to draw the higher rate of pay in the promoted rank to which they would have been entitled in the regular line while holding the post outside their regular line as under :

Sr No.	Name of the official and designation	Date from which on deputation with U.T. Chandigarh	State of allocation	date of first promotion to which promoted	remarks
1.	2.	3.	4.	5.	6.

PRINCIPALS/HEADMASTERS

HEAD MISTRESSES

xx xx xx



LECTURERS

xx

xx

xx

Masters/Mistresses

1 to 9

xx

xx

xx

10. Prem Kanta, 1.11.66 Pb. 6.12.73 as
GMSSS-10 Lecturer

11. Upinder Lamba, 1.5.68 Pb. 16.3.68 as
GHS-22C Lecturer

12

to 26 xx

xx

xx

J.B.T.Teachers

xx

xx

xx

The benefit will accrue to the above officials notionally from the date(s) mentioned in Column (5) above i.e. from the dates they were promoted to the next higher rank by their parent state(s) of Punjab/Haryana/Himachal Pradesh, while continuing to work in their lower post subject to the following conditions :

i) The period of service of the above officials will be continued from the date of proforma promotion for increment in the post in which he/she would have officiated had he/she been in the regular line.

ii) That the benefit under 'Next Below Rule' to draw the higher rate of pay in accordance with the promotion orders issued by the parent state(s) would be notional from the date they were promoted to the next higher rank while continuing to work in the lower post.

iii) That the actual benefit of salary in the higher grade after pay-fixation would accrue prospectively i.e., from the date of issue of this order.

iv) That the above officials will continue to enjoy the benefit under N.B.R. mentioned above till they cross the maximum of



their pay scale in the present post or adjusted against higher post under deputation quota of 20%.

S.S.Brar

*Dated Chandigarh,
the 25th January, 1993.*

*Finance & Education Secretary,
Chandigarh Administration.*

NO.DPI-UT-SI-11()93

Dated Chandigarh, the 23-2-93”

7. Pursuant to aforesaid order, the respondent made calculations of salary of the petitioner and determined her salary Rs. 3600/- w.e.f. 01.01.1993. The respondent vide order dated 05.11.1993 decided to defer benefit of ‘Next Below Rule’ till further orders. Letter dated 05.11.1993 reads as:-

“Subject:Benefit of Next Below Rule to the deputationists.

-:-

This Department had given the benefit of N.B.R. under Rule 4.13 of Punjab Civil Services Rule, Volume-I, Part-I, to the various officials on deputation from the States of Punjab, Haryana & Himachal Pradesh, consequent upon their promotion to higher ranks.

The Accountant General (Audit), U.T., Chandigarh has raised objections for giving the benefit of Next Below Rule to the deputationists. The matter was discussed in detail in a meeting and it has been decided that the operation of all such orders issued by the Department regarding grant of benefit under Next Below Rule should be stayed forthwith.

Accordingly, you are requested to ensure that no deputationists is granted the benefit of Next Below Rule till further orders. It may also be ensured that no



*case of any official for granting the benefit under N.B.R.
is forwarded to this office.*

Sd/-

*Registrar Education(s)
for Director Public Instruction(s)
Chandigarh Administration.”*

8. The petitioner approached this Court by way of instant writ petition which was allowed vide order dated 12.11.2014. There was no representation of the UT Administration though reply of UT Administration was on record. This Court by aforesaid order allowed the writ petition on the ground that impugned order was passed without granting opportunity of hearing to the petitioner. The Court not only set aside impugned order dated 05.11.1993 (Annexure P-6) but also set aside orders dated 23.02.1993 and 12.03.1993 to the extent arrears were not granted.

9. Learned counsel for the petitioner submits that impugned order was passed in gross violation of principles of natural justice. The respondent neither issued show cause notice nor granted opportunity of hearing prior to passing the impugned order. The respondent further did not grant arrears for the period from March' 1968 to January' 1993. The petitioner was entitled to higher pay scale on actual basis instead of notional basis from 1968. The respondent wrongly granted revised pay scale on actual basis from January' 1993.

10. *Per contra*, learned counsel for the respondent-UT Administration submits that petitioner always taught students of class 6th to 10th. She was holding position of Mistress. She belonged to State of Punjab and was working with UT Administration on deputation basis. She was



promoted by State of Punjab as Lecturer, however, her promotion was subject to joining parent department. She did not join her parent department, thus, benefit of post of Lecturer was not extended to her. UT Administration considered her request in 1993 and decided to extend higher pay scale on notional basis from 1968 and on actual basis from 1993. There was an objection by Audit Department, thus, it was decided to keep decision to extend benefit of higher pay scale in abeyance. The petitioner has approached this Court whereas alternative remedy in the form of petition before Central Administrative Tribunal was available.

11. I have heard learned counsel for the parties and perused the record with their able assistance.

12. From the perusal of record, it is evident that petitioner was employee of State of Punjab and working with UT Administration on deputation. No petition is maintainable against State of Punjab before Central Administrative Tribunal, thus, petitioner was right in approaching this Court.

There is another aspect of the matter. Petitioner approached this Court in 1993 and favourable order was passed in November' 2014. There seems no reason to relegate petitioner to Central Administrative Tribunal. In any case, alternative remedy does not absolutely debar this Court to entertain writ petition.

13. The petitioner was extended benefit of pay scale of Lecturer on notional basis from March' 1968 and actual basis from January' 1993. The said benefit was attempted to be withdrawn vide order dated 05.11.1993.



The benefit was not withdrawn in absolute terms whereas it was ordered that benefit may be kept in abeyance till further orders.

14. The respondent during the course of hearing conceded that benefit of higher pay scale stands granted to petitioner from 1993. The respondent is only disputing arrears granted for the period from 1968 to 1993. The respondent till date has not granted arrears for the period prior to 1993.

15. There is substance in the contention of respondent that petitioner never worked as Lecturer from 1968 to 1993, thus, it was not appropriate to grant arrears for the said period though she could be entitled for higher pay scale on notional basis.

16. In the wake of above discussion and findings, impugned order dated 05.11.1993 (Annexure P-6) is hereby set aside. As confirmed by respondent, the petitioners have retired during 1998-2001. It would be unjust and unfair if, at this belated stage, they are asked to refund any amount which had already been paid to them. Therefore, it is made clear that no recovery with respect to amount, already paid, shall be affected.

(JAGMOHAN BANSAL)
JUDGE

06.11.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	