
(2013) 04 P&H CK 0059
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5741 of 2012

Ajmer Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 04-04-2013

Acts Referred:

Citation : (2013) 3 RCR(Civil) 678 : (2013) 3 SCT 565

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Vikas Chatrath, for the Appellant; Monika Chhibbar Sharma, DAG, for the Respondent

Judgement

Augustine George Masih, J.—Petitioners have approached this Court praying for quashing of the order dated 8.3.2011 (Annexure P-8) vide which the claim of the petitioners to grant them House Rent Allowance (for short HRA) at the rate of 7.5% of the basic pay stands declined on the ground that when the notification dated 9.1.1998 (Annexure P-2) was issued by the State of Punjab, the population of city Jagraon was less than 50000 and, therefore, fell in the category of unclassified towns and the employees of such towns were entitled to 5% HRA of the basic pay. Counsel for the petitioners placing reliance upon the details of the population of Jagraon city as given by the Secretary, Municipal Council, Jagraon dated 25.5.1998 (Annexure P-4) which stated that it was 60,582. His contention, thus, is that since the year 1998, the population of the city Jagraon is more than 50000, therefore, the city should have been classified as "C" entitling the petitioners to the claim of 7.5% of the basic pay as HRA. In any case, he contends that Government of India carried out a census in the year 2001 and according to that census also, the population of Jagraon city is 60080 which comes to be more than 50000 entitling the city to be declared as "C" class which would, therefore, entitle the petitioners to claim the benefit of 7.5% of the basic pay as HRA at least with effect from the year 2001. Accordingly, he contends that the impugned order deserves to be quashed and the writ petition

allowed.

2. On the other hand, counsel for the respondents contends that the notification dated 9.1.1998 was issued by the respondents in the light of the recommendations made in the 4th Pay Commission which came into effect from 1.1.1996. As per the said recommendations of the 4th Pay Commission, the population of the city was to be taken from 1.1.1996 and on the said date, the population of Jagraon City was less than 50000 as the year, which was taken as the base year for classifying the cities, was 1991 when the census was held by the Government of India.

3. It is the further contention of the counsel for the respondents that the new recommendations of the 5th Pay Commission were made effective and since then Jagraon city has been classified as "C" category entitling the employees posted there to the grant of 12.5% of the basic pay as HRA w.e.f. 01.08.2009. The said benefit has already been granted to the petitioners in accordance with law and, therefore, the writ petition deserves to be dismissed.

4. I have considered the submissions made by the counsel for the parties and with their assistance have gone through the records of the case.

5. Letter dated 9.1.1998, which is the basis for classifying the cities/towns, which was issued in pursuance to the implementation of the recommendations of the 4th Pay Commission with regard to the House Rent Allowance reads as follows:--

I am directed to address you on the subject cited above and to say that in pursuance of the recommendations of the fourth Punjab Pay Commission, the Governor of Punjab is pleased to take the following decisions:--

(i) The revised classification of cities/towns in the State for the purpose of grant of House Rent Allowance and the admissible rate of House Rent Allowance to Government employees, shall be as under:--

6. A perusal of the above would show that a criteria has been laid down for classifying the cities dependent upon the population of the said city/town. The categorization/classification, thus, is dependent upon the population of the city/town for declaring it in a particular class. As per the stand of the respondents, Government of India Census 1991 was initially taken when the notification dated 9.1.1998 was issued for classification of the cities. Census was again held in the year 2001 by the Government of India, according to which population of city Jagraon was 60080 (Annexure P-5).

7. If that be so, city Jagraon which had more than 50000 population w.e.f. 2001 as per census of Government of India which is to be taken as the basis for counting the population of a city, Jagraon is a class "C" city entitling the employees of the Government of Punjab including the petitioners, to the HRA at the rate of 7.5% of the basic pay w.e.f. 01.01.2001. The impugned order dated 8.3.2011 (Annexure P-8), thus, cannot sustain and the same stands quashed. This writ petition is allowed. Petitioners are held entitled to the HRA at the rate of

7.5% of the basic pay w.e.f. 1.1.2001 treating the town of Jagraon as Class "C" city. Arrears be calculated and released to the petitioners within a period of three months from the date of receipt of certified copy of the order.