

(2020) 02 P&H CK 0276

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 25777, 28381, 29672, 29757, 29774, 31260, 36347, 37042 Of 2019, 1426, 4255, 4261 Of 2020

Mahabir Singh And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 02 P&H CK 0276

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : Virender Kumar, Umesh Narang, S.N. Yadav, Rahul Deswal, Vivek Khatri, Aditya Yadav, Ravi Dutt Sharma, Pankaj Mulwani

Final Decision : Dismissed

Judgement

Serial No. of the petitioner in CWP

No.37042 of 2019", "Name of the petitioner in CWP

No.37042 of 2019", "Serial No. and CWP No. in which
the petitioner was earlier party.

1, Tara Chand, "Petitioner No. 43 in CWP No.6906
of 1991

4, Sampuran Chand, "Petitioner No. 37 in CWP No.15569
of 1990

5, Ram Sharan, "Petitioner No. 23 in CWP No.15569
of 1990

6, Rajender Singh, "Petitioner No.27 in CWP No.6906 of

1991

8,Chander Patti Yadav,"Petitioner No.57 in CWP No.15569

of 1990

9,Naib Singh Chauhan,"Petitioner No.16 in CWP No. 15569

of 1990

11,Anang Pal,"Petitioner No.108 in CWP No.15993

of 1990

12,Mahavir Singh,"Petitioner No.18 in CWP No.15993

of 1990

13,Naresh Kumar,"Petitioner No.34 in CWP No.15993

of 1990

14,Rakesh Kumar,"Petitioner No.43 in CWP No.389 of

1991

15,Mohinder Singh,"Petitioner No.20 in CWP No.6906 of

1991

17,Arvind Kumar Tyagi,"Petitioner No.33 in CWP No.15569

of 1990

19,Man Pal Singh,"Petitioner No.106 in CWP No.15569

of 1990

20,Tej Pal Singh,"Petitioner No.165 in CWP No.15993

of 1990

24,Mahi Pal Singh,"Petitioner No.33 in CWP No.12386

of 1990

29,Om Parkash Sachdeva,"Petitioner No.170 in CWP No.15993

of 1990

31,Kulwant Singh,"Petitioner No.45 in CWP No.15569

of 1990

32,Gulab Singh,"Petitioner No.153 in CWP No.389 of

1991

was truly 'ad hoc'. Subsequent actions and events have clearly revealed that no

definite formula or criterion had been prescribed or followed while,,
granting the ad hoc relief. In such a situation, we find nothing wrong in the action of the CWP No.1426 of 2020 and other connected cases",,,
Government in deciding to adjust the excess amount which was being already drawn by the employees towards future installments of additional,,
Dearness Allowance. It did not violate any Rule or Law. It did not act unfairly. It did not even withdraw or recover the excess already paid. It did not,,
even stop the payment of the ad hoc relief. It only directed that additional allowance shall be granted after adjusting the excess amount of ad hoc relief,,
already wanted. We find nothing to be arbitrary. We find no illegality in the order.,,

7. It is also proper to remember that the country- the tax payer-bears the burden of the pay and allowances of the Civil Servants. The financial,,
constraints that confront the State cannot be easily over-looked. Payments by way of ad hoc relief and additional Dearness Allowance sanctioned by,,
the State are only in the nature of welfare measures. These must have a relation to the resources actually available. Equally the civil servant must not,,
flourish at the cost of others.,,

8. On a consideration of the matter we are satisfied that the premises on which the Government had passed the impugned orders are valid. The,,
consequential adjustments made by the Government cannot be annulled by us in the exercise of jurisdiction under Article 226 of the Constitution.â??,,

Thereafter, the judgment rendered in the case of Nitya Nand Vs. State of Haryana, CWP No. 5563-A of 1989, decided on 23.04.1990 was dealt with",,,
in para No.9 of the same judgment Ishwar Singh Sharma (supra) as under:-,,

â??9. Relying on the decision of this Court in Nitya Nand v. State of Haryana (C.W.P. No. 5563-A of 1989 decided on April 23,1990), it has been",,,

contended that the writ petition deserves to be allowed. We have gone through this judgment. We are also informed that on the basis of the decision in,,

Nitya Nand's case (supra), a number of other petitions have also been decided. On the other hand, Mr. Sibal appearing for the respondents has",,,

pointed out that the State Government has filed a petition for special leave in the Nitya Nand's case and is also filing appeals petitions in other cases.,,

In this situation, we have decided not to refer the matter to a larger Bench. Even otherwise, we find that the decision in Nitya Nand's case is based on",,,

the judgment in C.W.P. No. 966 of 1988 (Haryana Govt.,, College Lecturers Association v. The State of Haryana, 1991(1) S.C.T. 141)decided on July 18, 1988. This decision was in the case of College",, Teachers, who were not granted any ad hoc relief under the order of the State Government in the year 1972. Consequently in their case, the question",, of any adjustment of an excess payment did not arise. This decision had no application in the cases of other Govt. servants. The pay scales of college,, Lecturers were determined on the recommendations of the University Grants Commission, while the employees in various departments of the Govt.",, were granted relief periodically in the nature of additional dearness allowance. The cases of College Lecturers are, therefore, entirely different from",, those of other civil servants and no analogy could have been drawn therefrom as in the case of Nitya Nand.â??,, The writ petitions were also dismissed on the ground of delay in approaching the Court by holding in para 11 as under:-,,

â??11. It is noteworthy that in Nitya Nand's case even the objection regarding delay had not been raised. In the CWP No.1426 of 2020 and other,, connected cases present case, the learned Advocate General has vehemently contended that the claim made by the petitioners is absolutely stale. The",, orders of 1974 have been challenged in the year 1990. On a consideration of the matter, we find merit in the objection. The petitioners did not raise",, even a whisper against the order of March, 1974 during all these years. In fact, they drew all the benefits under the order which is now sought to be",, impugned. Not only that the pay scales have been revised in the years 1979 and 1986, but even otherwise, we have found no justification for the long",, silence on the part of the petitioners. On the ground of delay alone the petitions deserve to be dismissed. The learned counsel for the petitioners,, contends that it is a recurring cause of action. We are not inclined to accept this contention. The pay of every employee had been fixed in accordance,, with the letter of March 20, 1974 and the Annexures thereto. Even a suit would be totally barred by limitation. In such a situation, we are not inclined",, to invoke our extraordinary jurisdiction under Article 226 of the Constitution of India to entertain this belated claim made by the petitioners.â??,,

Thereafter, the said judgment was upheld by Hon'ble the Apex Court, vide order dated 17.02.1993, passed in the SLP filed by employees, in the case",,

of State of Haryana and another Vs. O.P. Sharma and others, reported in 1993 (3) SCT 170 as well as other connected SLPs including SLP filed by",,

employees Om Parkash Kaushik Vs. State of Haryana (SLP No.3399 of 1993) by holding in para 3 as under:-,,

â??xxxxxxx The State Government was also directed to dispose of the said representation by a speaking order. When the order giving reasons for,,

negating the CWP No.1426 of 2020 and other connected cases contention of the employees was placed before the Division Bench it appreciated the,,

stand of the State Government since the factual premise in the case of College Teachers was altogether different from the factual premise in the case,,

of other Government servants who had actually received the ad-hoc interim relief. The High Court, therefore, rightly came to the conclusion that the",,

ratio of the College Teachers' case was not applicable to the case of those Government servants who were the recipients of ad-hoc interim relief.,,

Since the interim relief granted in 1972 was not based on any formula but was totally ad-hoc, when the formula for the grant of additional dearness",,

allowance on the cycle of increase by 8 points in the Consumer Price Index was adopted by the State Government, the State Government realised that",,

the ad-hoc interim relief was in excess by Rs. 9.40 to Rs. 45 per month depending on the pay-slab of a Government servant and, therefore, decided to",,

adjust the increase rather than order lump sum recovery of the excess amount. Such an order passed by the State Government to recover the excess,,

amount in a phased manner can never be termed as arbitrary, unreasonable, unfair or illegal. The High Court was, therefore, right in refusing to follow",,

the decision in Nitya Nand's case in the subsequent Writ Petitions which were filed by various groups of Government employees who had benefited,,

from the interim ad-hoc relief. In view of the above, we arc of the opinion that Civil Appeals Nos. 53-60 of 1992 must be allowed and the order",,

passed by the High Court must be reversed. There will be no order as to costs throughout. The Special Leave Petitions filed by the employees against,,

the subsequent order of the High Court upholding the impugned order of 20th March, CWP No.1426 of 2020 and other connected cases 1974 must",,

fail and are rejected.â??",,

Unfortunately, the above mentioned judgments were not brought to the notice of the Court either in R.K. Gupta's case (supra) or any other",,

subsequent writ petition allowed by learned Single Bench of this Court. Even, the argument that writ petition titled as R.S. Khanna (supra) was",,

allowed on the statement of learned State counsel does not help as no statement could have been made contrary to the record.,,

The above mentioned writ petitions are filed now in the year 2020, which is even later then the writ petitions, which came to be filed against the same",,

action of the respondents/State way back in the year 1990 but was dismissed both on account of delay and merit.,,

Dismissed accordingly.,,