
(2010) 12 P&H CK 0123

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6981 of 1990

Surinder Mohan Saini and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Citation : (2010) 12 P&H CK 0123

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.—By this common order, three writ petitions viz. (1) titled as "Surinder Mohan Saini and Ors. v. State of

Haryana and Anr CWP No. 6981 of 1990"; (2) titled as "Janak Dulari v. State of Haryana and Anr. CWP No. 15668 of 1990" and (3) titled as

"Janardhan Dass Gupta and Ors. v. State of Haryana and Anr. CWP No. 12862 of 1991" shall be decided altogether.

2. For facility of reference, the facts are culled-out from CWP No. 6981 of 1990.

3. Eight Petitioners have averred that they were working as Clerks in the office of Deputy Commissioner, Ambala. It is further averred that they

were discharging their duties as such from the year 1983-84. The Petitioners were drawing fixed medical allowance at the rate of Rs. 30/-per

month as per communication (Annexure P-1) dated 21st December, 1988. From the month of April 1990, the fixed medical allowance of Rs. 30/-

per month given to the Petitioners, was abruptly stopped. They have approached this Court with a prayer that the fixed medical allowance be paid

to them, as it is being paid to the other employees of the State.

4. The stand taken by the State of Haryana is that the adhoc-employees are not

entitled to fixed medical allowance as per communication

(Annexure R-2) dated 11th July, 1990. The relevant portion of the communication (Annexure R-2) reads as under:

2. It is to inform you fixed medical allowance of Rs. 30/-will not be paid to the employees working on Adhoc basis. Please pursue the case accordingly.

5. In CWP No. 12868 of 1991, a similar prayer has been made by 58 employees of the State of Haryana and a similar stand has been taken by State.

6. CWP No. 15668 of 1990 has been preferred by Janak Dulari, who was posted as a Lecturer in English in Government Girls Senior Secondary School, Ambala City. She has also been denied the fixed medical allowance on the ground that she was an adhoc employee.

7. A Division Bench of this Court, while admitting CWP No. 6981 of 1990, on 5th November, 1990, ordered that the State shall continue to give

the medical allowance to the Petitioners and other

Civil Writ Petitions No.6981 and 15668 of 1990 and 12862 of 1991

Civil Writ Petitions No. 6981 and 15668 of 1990 and 12862 of 1991 similarly situated employees without break till the decision of the writ

petition. In the other two writ petitions also, an interim relief was granted in same terms as in CWP No. 6981 of 1990.

8. There is no doubt that in the last 18 years, the Petitioners have been regularized and have become permanent/regular employees of the State of

Haryana. Counsel for the State is not able to acquaint this Court whether the Petitioners have been regularized or not. If the fixed medical

allowance has already been paid to the Petitioners in compliance with the interim orders passed by a Division Bench of this Court, in view of the

ratio of law laid down by a Full Bench of this Court in "Budh Ram and Ors. v. State of Haryana and Ors" 2009(3) SCT 333, no recovery can be

effected from them and once they have become regular employees of the State of Haryana they are entitled to the fixed medical allowance in their

own right, from the day of regularization.

9. Hence, the aforesaid three writ petitions are hereby disposed of with a direction to the Respondents that till the Petitioners remained adhoc

employees, they will be entitled to the fixed medical allowance and if it has already been paid to them in terms of the interim orders passed by a Division Bench of this Court, no recovery shall be effected from them.