



HARYANA POWER GENERATION CORPORATION LIMITED

AN ISO:9001,ISO:14001 & OHSAS:18001 CERTIFIED COMPANY

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Office Order No. 01 /CE/Admn.

Dated:- 01/01/2020

The Hon'ble Punjab and Haryana High Court vide order dated 14.08.2019 disposed of CWP No. 20577 of 2019 titled as Raj Singh and another Vs SOH and others. The order dated 14.08.2019 is reproduced hereunder:-

"Present writ petition has been filed by the petitioners claiming the re-fixation of their pay in view of the orders of this Court passed in CWP No. 16084 of 1997, CWP No. 2757 OF 1998 and CWP No. 4518 of 2000 which were upheld by the Hon'ble Supreme Court, vide order dated 08.12.2015 (Annexure P-5) being Civil Appeal No. 8661 of 2009.

Petitioners claim that they are similarly situated with those who have been granted the relief by this Court but the same has not been granted to them only on the ground that they have not approached this Court and were not the petitioners in above mentioned writ petitions.

From the pleadings, it transpires that for the relief which has been claimed in the present writ petition, petitioners have submitted representations dated 18.06.2018 (Annexure P-7 Colly.) which are still pending consideration with the respondents.

Interest of justice will be served, at this stage, in case a time bound direction is issued to the respondents to decide the said representations by passing the appropriate speaking order.

Without commenting upon the merits of the case or about the entitlement of the petitioners for the relief which has been claimed by them in the representations dated 18.06.2018 (Annexure P-7 Colly.), the present writ petition is disposed of with a direction to the respondents to decide the representations dated 18.06.2018 (Annexure P-7 Colly.) within a period of three months from the receipt of certified copy of this order.

Present writ petition stands disposed of."

In the representation dated 18.06.2018 (Annexure P-7 Colly.) Sh. Raj Singh S/o Sh. Maha Singh and Ms. Bimla Devi wd/o Kartar Singh Gill (herein after referred to as petitioners) have requested for restoration of deduction made from the payment of additional dearness allowance in view of judgment mentioned in the para 1 of the order dated 14.08.2019 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh in CWP No.4518 of 2000.

That in order to decide the representation, it is relevant to take cognizance of the fact that in the year 1972, adhoc relief was granted by Govt. of Haryana vide instructions dated 27/29th June, 1972 and further by instructions dated 19.12.1972. The petitioners were also granted adhoc relief in terms of these instructions. As the subject suggests the relief granted by aforesaid instructions was purely in the nature of adhoc relief, therefore, vide instructions no. 1699-3FR-74/104392 dated 20.03.1974, it was clarified as under:-

- i. XXXXX
- ii. XXXXXX
- iii. That while making payments of additional dearness allowance, part of the amount of adhoc reliefs as indicated in column 5 and 7 of the annexure I to this letter shall be adjusted.
- iv. XXXXXXXX

Further, it is an admitted that above said instructions dated 20.03.1974 was never challenged by the petitioners. Therefore, ibid instructions are binding upon the petitioners. It is also relevant to refer the judgment dated 17.02.1993 passed by Hon'ble Supreme Court in SLP no. 20144

of 1991 titled as State of Haryana & another V/s O.P. Sharma & others whereby Hon'ble Supreme Court disposed of various SLPs. The operative part of aforesaid order is reproduced as hereunder:-

"The decision in Nitya Nand's case (supra) was based on the decision in the College Teachers' case without realizing that Nitya Nand and other Government servants had in fact been the beneficiaries of the interim relief granted in 1972 unlike the College Teachers. No other reason was given in Nitya Nand's case (supra) for striking down the relevant Government Order. When the other batch of cases came up before another Division Bench of which G.C. Mittal, J. was a member, who was also a member of the Bench which decided the College Teachers' case, it was realized that the factual position was not identical and, therefore, the petitioners were directed to make a comprehensive representation to the State Government for its consideration. The State Government was also directed to dispose of the said representation by a speaking order. When the order giving reasons for negating the 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 adhoc interim relief. Since the interim relief granted in 1972 was not based on any formula but was totally adhoc, 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 realized that the adhoc 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 (supra) in the subsequent Writ Petitions which were filed by various groups of Government employees who had benefited from the interim adhoc relief. In view of the above, we are 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, 1974 must fail and are rejected."

Now, coming to the judgments cited by petitioners i.e. judgment dated 11.08.2003 passed in CWP no. 4518 of 2000 titled as R.K. Gupta & others V/s State of Haryana & others, these are distinguishable on facts and circumstances. The case in hand is fully covered by the judgment dated 17.02.1993 rendered by Hon'ble Supreme Court as discussed earlier in preceding para of this order. Thus, the petitioners are not entitled to any relief on merit as well as on the ground that it is a belated and stale claim as they have represented for restoration of deduction after more than 4 decades.

Now coming to issue in hand, it is the matter of record that adhoc relief was grant vide instructions dated 27/29th June, 1972 and further vide instructions dated 19.12.1972 and then it was directed to be deducted/adjusted vide instructions dated 20.03.1974. The recovery/adjustment was done from the salary of petitioners, but they chose to remain fence sitter for a long time and sat over the matter and then suddenly woke up after the instructions of Finance Department dated 16.03.2017, which are limited to the petitioner/litigants of CWP No. 16084 of 1997, CWP No. 2757 of 1998 and CWP No. 4518 of 2000, whereas the petitioners were not a litigant in any of these petition.

Another important factor which cannot be lost sight is that instructions no. 4/26/90-FR-II dated 12.10.1998 issued by Finance Department, Haryana were reiterated again vide letter no. 4/26/90-1FR dated 06.01.2004 & U.O. No. 4/26/1990-1FR/1105 dated 24.01.2019. In instructions dated 12.10.1998 it was clarified that the cases of adhoc relief are covered by judgment rendered by Hon'ble Supreme Court in SLP No. 20144 dated 17.02.1993 whereas in instructions dated 24.01.2019 it has been clarified that curative/review petition are to be filled in Hon'ble Supreme Court

decision dated 08.12.2015 passed in SLP No. 8661 of 2009 titled as State of Haryana V/s R.K. Gupta & others. Therefore, the matter is yet to be settled finally even otherwise, case of the petitioners is covered under instructions of Finance Department 1998 and judgment rendered by Hon'ble Supreme Court in SLP No. 20144 titled as State of Haryana and Anr. Vs. O.P. Sharma & Ors dated 17.02.1993 as discussed earlier.

In view of the above, the claim put forth Sh. Raj Singh S/o Sh. Maha Singh (XEN Retd.) and Ms. Bimla Devi wd/o Sh. Kartar Singh Gill (XEN Retd.) in the representation dated 18.06.2018 (Annexure P-7 Colly.) is not feasible for acceptance and same is hereby reject^{ed} for reason contained herein.


— SL
Dy. Secy./Genl.,
for Chief Engineer/Admn.,
HPGCL, Panchkula.

Endst. No. Ch-8 | HPGCL/GB-551 | Vol-I/2912

Dated:- 01/01/2020

A copy of above is forwarded to the following for information and necessary action:-

1. The Assistant Registrar (Writs), Punjab and Haryana High Court, Chandigarh w.r.t. order dated 14.08.2019 in CWP No. 20577 of 2019.
2. Additional Chief Secretary to Govt. of Haryana, Finance Deptt., Haryana Civil Secretariat, Chandigarh.
3. Additional Chief Secretary to Govt. of Haryana, Power Deptt., Haryana Civil Secretariat, Chandigarh.
4. Sh. Raj Singh (XEN Retd.) S/o Sh. Maha Singh R/o House No. 330, Sector-2,3,4, Rohtak.
5. Ms. Bimla Devi wd/o Sh. Kartar Singh Gill (XEN Retd.) R/o Village-Khedar, District- Hisar.
6. Dy. Secretary/Finance, FD. Govt. of Haryana Civil Secretariat, Chandigarh.
7. LR, HPU, Shakti Bhawan, Sector-6, Panchkula.
8. Controller of Finance, HPGCL, Panchkula.
9. Chief Engineer/PTPS, RGTPP, DCRTTP, HPGCL.
10. Chief Accounts Officer, HPGCL, Panchkula.
11. Dy. Secy./Estt., (G), HPGCL, Panchkula.
12. XEN/IT, HPGCL, Panchkula. It is requested to host the speaking order on the website of HPGCL.
13. Nodal Officer-cum-Under Secretary/NGE, HPGCL, Panchkula.


11/1/20
Dy. Secy./Genl.,
for Chief Engineer/Admn.,
HPGCL, Panchkula.

CC:-

1. SPS to Managing Director, HPGCL, Panchkula.
2. SPS to Director/Generation, HPGCL, Panchkula.
3. PS to Chief Engineer/Admn., HPGCL, Panchkula.