UNIVERSITY GRANTS COMMISSION

Bahadur Shah Zafar Marg, New Delhi-110002

SPEED POST

No.F.9-2/2009 (PS) Pt. file 20.11.2013

Shri Sandeep Jain, Under Secretary, Govt. of India Ministry of Human Resource Development Deptt. of Higher Education U-1 Section , Shastri Bhawan

New Delhi-11001.

Sub:- Date of increment in revised pay structure Under Rule 10 of Haryana Civil Service (Revised Rule) .2008.

Sir,

I am directed to refer to your E-mail dated 9.2.2013 on the subject cited above regarding applicability of annual increment between February to June- 2006 granted one increment on 1.1.2006 in the pre-revised pay structure on 1.7.2006 to the College Teachers or not and to inform you that there is no provision in UGC ( Minimum Qualification for appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education ) Regulations, 2010. A copy of letter received from Dy. Director General Higher Education, Haryana, Panchkula is enclosed for further necessary action.

Yours faithfully

( Reeta Goel)

Under Secretary

Copy to :- The Dy. Director General, Higher Education, Haryana, Panchkula-134102.

From

Financial Commissioner & Principal Secretary to

Govt. Of Haryana ,Higher Education Department

1. The Registrar, Kurukshetra University, Kurukshetra.
2. The Registrar, Maharishi University, Rohtak
3. The Registrar, Ch. Devi Lal University, Sirsa.
4. The Registrar Bhagat Fhool Singh Mahila Vishwavidyalya, Khanpur-Kalan ( Sonipat).
5. All the Principals of Govt. & Aided Private Colleges in the State of Haryana.

Memo no. KW-7/18-2009 C-IV (3) Dated Panchkula, the 29.4.2011, 21.7.2011

**Subject:-** Regarding adoption of various recommendations of UGC & MHRD with regard to minimum qualifications for appointment of teachers and other academic Staff in the Universities & Colleges and measures for maintenance of the standered of Higher educations.

In continuation of this office memo no. KW-7 /18-2009 CIV (3) dated 28.8.2009,9.9.2009, the State Govt. after considering the recommendations given by the committee of Vice Chancellors on the recommendations of the Ministry of the Human resource Development, Govt. of India and UGC as conveyed vide their letter no.1-32/2006-UII/U I (i) dated 31.12.2008 and letter no. E 3-1/2009,dated 30.6.2010, has decided to issue a comprehensive revised order on minimum qualifications for appointment of teachers and other academic staff in the Universities and Colleges and measures for the maintenance of the slandered of Higher Education. These decisions are incorporated in the enclosed Annexures.

Anomalies, if any, in the implementation of the scheme may be brought to the notice of Higher Education Department for clarification.

This issue with the concurrence of the Finance Department conveyed vide letter no. UO No. 1/46/2009-4 PR (FD) . dated 26.4.2011.

Deputy Secretary, Higher Education

For Financial Commissioner & Special Secretary to Govt. of Haryana ,Higher Education Department.

Endst. No.KW-7/18-2009 C-IV (3) dated Panchkula, 29.4.2011

A copy is forwarded to the Secretary to Govt. of India, Ministry of HRD, Department of Education , New Delhi for information and n/a.

Deputy Secretary, Higher Education

For Financial Commissioner & Special Secretary to Govt. Of Haryana ,Higher Education Department.

A copy is forwarded to the Secretary, UGC ,Bahadur shah Zafar Marg,New Delhi for information and n/a.

CIVIL WRIT PETITION under Article 226 of the Constitution of India for issuance of writ in the nature of Certiorari to quash the impugned Order dated 12.12.2014 **AnnexureP-6** AND

**further** writ in nature of Mandamus directing to the respondents to grant the benefit of order/letter dated 16.4.2012 **Annexure P-2** to the petitioners and thereby grant them one additional increment on 1.1.2006 in the pre-revised pay scale as one time measure and grant them all consequential benefits along with interest @12% P.A. AND

Any other writ, order or direction, which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, may be issued in the interest of justice.

**RESPECTFULLY SHOWETH**:

**1.** That the petitioners are citizens of India and are working in the Education Department of State of Haryana and as such are entitled to invoke extra-ordinary jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India by way of present writ petition.

**2.** That the petitioners are working as Assistant/Associate Professors in Haryana Government Colleges which they are holding and serving the department as such till date to the utmost satisfaction of the superiors with missionary zeal.

**3.** That the Haryana Government revised the pay Scale of its employees under the rule HARYANA CIVIL SERVISES (Revised Pay) RULE,2008,hereinafter referred to as Revised Pay Rules. The Revised Pay Rule come in to force on 1st of January .2006. That the pay of all the petitioners has been revised as per the Revised Rules w.e.f. 1st januray.2006.

**4.** That as per Rule 10 of the Revised Pay Rules,2008 the date of next increment in the revised pay structure has been prescribed. The Rule 10 of the Revised Pay Rules reads as under:-

**10. Date of next increment in the revised pay structure:**

**“**There will be a uniform date of annual increment, viz. 1st July of every year. Employees completing 6 months and above in the revised pay structure as on 1st of July will be eligible to the grant of the increment. The first increment after fixation of pay on 1.1.2006 in the revised pay structure will be granted on 1.7.2006 for those employees also for whom the date of next increment was between 1st July, 2006 to 1st January, 2007:

Provided that in case of persons who had been drawing maximum of the existing scale for more than a year as on the 1st day of January 2006, the next increment in the revised pay structure shall be allowed on the 1st day of January, 2006. Thereafter, the provision of Rule 10 would apply.

Provided further that in cases where an employee reaches the maximum so if his pay band, shall be placed in the next higher pay band after one year of reaching such a maximum. At the time of placement in the higher pay band, benefit of one increment will be provided. Thereafter, he will continue to move in the higher pay band till his pay in the pay band reached the maximum of PB-4, after which no further increments will be granted.”

**5.** That a perusal of Rule 10 for grant of increments shows that the uniform date of increment is 1st July every year and an employee is eligible for next increment after

completing 6 months and above in the Revised Pay Structure as on 1st July.

**6.** That the petitioners are those persons whose date of increment was due in the span of 1st Feb. 2006 to 30th June, 2006, as they have completed a period of 12 months from the date of last increment. These petitioners have been granted next increment only on 01.07.2006 and as such the span of increment has been extended from 12 months to 13-17 months. A detail of increments due date, increments granted on and the gap after which the increment has been granted to each of the petitioner is given below:-

**“PARTICULARS OF INCREMENT”**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sr.N** | **Name of Petitioner** | **Annual Increment Due Date** | **Annual Increment Given on** | **A.Increment granted after** |
| 1. | Smt. Shailja Chhabra | 1.2.2006 | 01.07.2006 | 17 months |
| 2. | Ram Kumar | 1.3.2006 | 01.07.2006 | 16 months |
| 3. | Jai Narayan | 1.4.2006 | 01.07.2006 | 15 months |
| 4. | Sunita | 1.4.2006 | 01.07.2006 | 15 months |
| 5. | Dr.SatyaNarayan | 1.4.2006 | 01.07.2006 | 15 months |
| 6. | Anita Singh | 1.4.2006 | 01.07.2006 | 15 months |
| 7. | Nirmal Boora | 1.4.2006 | 01.07.2006 | 15 months |
| 8 | KamleshSharma | 1.4.2006 | 01.07.2006 | 15 months |
| 9. | Reeta Gupta | 1.4.2006 | 01.07.2006 | 15 months |
| 10. | Renu | 1.5.2006 | 01.07.2006 | 14 months |
| 11 | Vimla Kumari | 1.2.2006 | 01.07.2006 | 17 Months |

A perusal of the aforesaid table would show that increment of petitioner at Sr.no.1 has been released after 17 months and to petitioner at Sr. no. 2 after 16 months. The total span on period is more than 12 months in each case. As a consequence, the additional period of service beyond the period of one year has been washed away which is impermissible in law. According to the petitioners it has cause them permanent recurring loss of delayed increment.

In this way, if the aforesaid course is permitted then junior would start getting more pay than their senior counterparts in the same cadre, which is impermissible and it violate Articles 14 and 16(1) of the Constitution. The petitioners have also asserted that classification of employees by fixing the date of increment as 1st of July would result into hostile discrimination as if bifurcate a uniform class of employees working in one service and in one cadre.

**7.** That due to the change of date of Increment and the period more than 12 months an anomaly has been created in the Rule 10 of the Revised Pay Rules concerning the present petitioners. The petitioners and a large number of persons similarly situated to the petitioners have suffered permanent recurring loss of delayed increments due to Rule 10 of the Revised Pay Rules.

**8.** That a perusal of Rule 10 shows that after fixation of pay on 01.01.2006 in the Revised Pay Structure the first increment has been granted on 01.07.2006 to those employees for whom the date of next increment was between 1st July, 2006 to 1st January, 2007, meaning thereby that all those employees who were to get the next increment between 1st July, 2006 to January, 2007 their date of increment has been advanced and they have been granted benefit of annual increment for a period of less than 12 months, e.g. the person whose next date of increment was 1st August, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 11 months; for 1st September, 2006 after a period of 10 months; for 1st October, 2006 after a period of 9 months, for 1st November, 2006 after a period of 8 months; for 1st December, 2006 after a period of 7 months and for 1st January, 2007 after a period of six months.

**9.** That the present petitioners have been put into disadvantageous position by Rule 10 of Revised Pay Rules as against the employees who have been granted advance increments before completion of 12 months period, the present petitioners have been granted benefits after completing more than 12 months i.e. 13-17 months, e.g. the person whose next date of increment was 1st February, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 17 months; for 1st March, 2006 after a period of 15 months; for 1st May, 2006 after a period of 14 months and for 1st June, 2006 after a period of 13 months, which is discriminatory and against the provisions of Article 14 & 16 of the Constitution of India.

**10.** That Rule 10 of the Revised Pay Rules is also in violation of the Rule 4.7 of the Punjab Civil Services Rules as applicable to State of Haryana. Rule 4.7 of the CSR is quoted as under:-

“4.7. An increment shall ordinarily be drawn as a matter of course, unless it is withheld. An increment may be withheld from a Government Employee by a competent Authority if his conduct has not been good or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments”.

**11.** That it is clear that annual increment has to be drawn as a matter of course in one year. The competent authority has got power to withhold the increment or to postpone it only if the conduct of an employee has not been good or the work has not been satisfactory. A competent authority is to clarify as to whether the postponement of the increment shall have the effect of postponing the future increments.

**12.** That on application of Rule 10 of the Revised Pay Rules, the increments have been deemed to be postponed/withheld in case of the petitioners and the postponement of increments by 2 to 5 months amounts to withholding of increments of pay by 2 to 5 months, whereas as per Part V Rule 11 of the Haryana Punishment and Appeal Rules, 1987 “withholding of increments of pay” is a minor penalty to be imposed on Government Servant in connection with any disciplinary proceedings. As such Rule 10 of the Revised Pay Rules is also in violation of Part V Rule 11 of the Punishment and Appeal Rules, 1987.

**13.** That the anomaly of grant of advance increment to the employees whose date of next increment falls between 01.07.2006 to 01.01.2007 and delayed increments to the employees whose date of next increment falls between 01.01.2006 to 01.07.2006 has created difference in the pay of senior and junior and as such further anomaly between junior and senior employees has cropped up giving further rise to legal battles.

**14.** That there is no reasonable basis of discrimination while creating classification. Once the two categories of employees have been identified and classified any subsequent discrimination with respect to grant of benefit of increments in advance to achieve the object of uniform date of increment amongst the two categories is totally violative of Article 16(1) of the Constitution of India. The action of the respondents is without any reasonable ground for differentiation.

**15.** That some effected employees of Haryana Govt. challenged the said action of the respondents before this Hon.ble Court through writ petition no .16975 0f 2010 for quashing the Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires, discriminatory and disadvantageous to the petitioners than, Hon,ble Division Bench allowed the said writ petition on dated 20.7.2011 and set-aside the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires of Article 14 of the Constitution in respect of those employees who earn their increment between 1st of January to 30th of June. A photo copy of the said judgment dt. 20.7.2011 is being attached herewith as **ANNEXURE P-1**.

**16.** That in compliance of the said order of the Hon,ble High Court, Finance Department Haryana i.e. respondent no.1 issued the Notification/Letter dated 16.4.2012 and relaxed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 and decided that those State Govt. Employees who were due to get their annual increment between February to June,2006 may be granted one increment on 1.1.2006 in the pre revise pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 and pay of the eligible employee be re-fixed accordingly. Notification/Letter dated 16.4.2012 is being attached herewith as **ANNEXURE P-2**.

**17.** That after issuance of the letter dated 16.4.2012 by the Finance department Haryana, has been implemented and anomaly created by Rule 10 removed in all Govt. departments for its regular employees and also implemented all the Universities i.e M.D.Univrsity Rohtak Kurukshetra University and H.A.U. Hissar for the staff of teaching and non-teaching. But in the case of the Govt.College teachers like petitioners, same was not implemented till date.

Copies of letters endorsed by the Universities in the State of Haryana are appended herewith as **ANNEXURE P-3 (Collectively).**

**18.** That the petitioners are the regular employees of the Haryana Govt. and according to the appointment letters ,terms and conditions , it has been clearly explained that in all the mattes he /she will be governed by the Punjab Civil Services Rule as applicable to Haryana Government employee and such orders and instructions as may be issued by the Government from time to time. However , the State Government has been issued the letter dated 16.4.2012 (Annexure P-2) , but even thereafter, respondents are not implementing the said letter.

**19.** That thereafter the petitioners filed a writ petition no. 11129 of 2014 titles as Dr.Nirmal Boora and Others v/s State of Haryana before this Hob.ble High Court and prayed, directing the respondents to implement letter dated 16.4.2012 issued by the Finance department Haryana and in that petition this Honble High Court has pleased to pass the order on 29.5.2014 vide which said writ petition was disposed of with a direction to the respondent no.1 to considered and decide the legal notice dated 21.1.2014 served by the petitioners with in a period of 3 months from the date of receipt of certified copy. The copy of Legal Notice dated 21.1.2014 and order dated 29.5.2014 passed by this Hon,ble Court are being attached herewith as **ANNEXURE P-4 & P-5** respectively.

**20.** That in compliance of the order of this Hon,ble Court , the petitioners approached the authority i.e. Respondent no.2 Additional Chief Secretary to Govt. of Haryana higher Education Department , with regard to the action on their legal notice and the respondent no.2 had, vide order/letter dated 12.12.2014 intimated to the petitioners that their legal notice has been considered and same was rejected by saying that :-

**“** From the perusal of the facts mentioned above , it is mentioned here that petitioners are demanding increment falling between February to June -2006 as per their due date not given , according to the instructions dated 16.4.2012 issued by the Finance Department ,Haryana , meaning that petitioners are claiming the benefits of additional increment in view of instructions dated 16.4.2012 . In this regard , THE OPINION/CONCURRENCE of Finance Department has been sought and the Finance Department has observed as under :- “ As per recommendations dated 20.11.2013 there is no provision for grant of one increment w.e.f 1.1.2006 to those whose increments was due between February to June , 2006 and F.D. letter dated 16.4.2012 issued by State Govt. is not applicable to the petitioners”.

Where as it is admitted fact that the Assistant/Associate professors working in the Govt. College are governed by Civil Services Rules as applicable in Haryana but vide notification No. KW 7/18-2009-IV(3) dated 21.7.2011 the State Govt. has adopted the recommendations of the UGC and MHRD with regard to pay scale and in other matters for the maintenance of the standard of Higher Education .Accordingly , the Assistant/Associate Professors working in Govt. Colleges are getting UGC pay scale w.e.f 01.01.2006.

In view of position explained above and letter dated 20.11.2013 issued by the UGC it is evident that the claim of the petitioners is not covered under guidelines.”

A copy impugned order dated 12.12.2014 is being attached herewith as **Annexure-P-6**

A true extract copy of recommendations dated 21.7.2011 of the UGC and MHRD adopted by the State Government Haryana, with regard to pay scale it attached herewith as **Annexure P-7.** and in other matters recommendations for the maintenance of the standard of Higher Education be shown at the time of hearing if need be with the kind permission of this Hon,ble Court.

**21.** That the impugned order Annexure P-6 is illegal, unjust, unwarranted, contrary to the law and facts deserve to be set-aside inter alia on the grounds mentioned herein below:-

G R O U N D S

1. That because the order passed by the respondent no. 2 is wrong on facts. It has been wrongly decided by him that Assistant/Associate Professors working in Govt. Colleges are governed by the Haryana Civil Services’ Rules but vide Notification dated 21.7.2011 ( Annexure P-7 ) of the U.G.C., State Government has been adopted the recommendations of the UGC and MHRD with regard to pay scales and therefore, the petitioner’s case is covered under the U.G.C. Regulations. In fact, the petitioners are Govt. State Employees and their pay & increment are governed under the Haryana Civil Service (Revised Pay Rule-2008), as is apparent from the Notification/letter dated 21.7.2011 Annexure (P-7 ), which clearly states that the revise pay structure of the teachers in the Universities and Colleges in Haryana is governed under the Haryana Civil Services Rules (Revised Pay Rules-2008). Therefore, both the Universities and Colleges teachers are being paid salary and scale and increment under these rules. Therefore, on this score alone the impugned order is liable to be set-aside.
2. That it is not in dispute that the University teachers, whose salary is being paid under these rules by the State Govt., have been given the benefits of letter dated 16.4.2012 (Annexure P-2 ) issued by the Finance Department ,Haryana by providing them one additional increment on 1.1.2006 in pre revised pay scale. But the same benefits has been declined to the petitioners vide impugned order dt. 12.12.2014 (Annexure P-5 ) passed by the respondent no.2 ,taking the plea that U.G.C. Regulation, 2010 do not provide for one increment in the pre revised pay scale .This is the patently illegal .The U.G.C. Regulation-2010 have no application to grant pay scale and increment to teachers like the petitioners .The pay and increment are granted by the State Govt. under the Haryana Civil Service- Rule-2008 to which the letter dated 16.4.2012 ( Annexure P-2 ) issued by the Finance Department Haryana , applies and, therefore, it is applicable in petitioners case as well and they are entitled to one additional increment in terms thereof . On this score also the impugned order Annexure P-6 is liable to be set-aside.
3. That UGC Regulation-2010 have been wrongly relied upon by the respondents in declining the petitioners’ claim as, grant of pay and increment to University and College teachers, the salary , scale and increment are paid to the University and College teachers by the Sate Govt. The date of increment of the petitioners has also been changed by the State Govt. under the new Pay Scale paid w.e.f., 1.1.2006. Thus, on this score also, the impugned order is liable to be set-aside.
4. That the issue of granting the date of next increment in the revise pay structure under Rule 10 of Central Civil Service Rule,2008 considered and in exercise of the powers available under Central Service Rule, (RP) 2008 the Hon,ble President please to decide that in relaxation of stipulation under Rule 10 of these those Central Government Employees ,who were due to get annual increment between February to June ,during 2006 may be granted one increment on 1.1.206 in the pre revised Pay Scale as a onetime measure and thereafter will get the next increment in the revise pay scale structure on 1.1.2006 as per Rule 10 of Central Service Rule ,(RP) 2008 and the pay of the eligible employee may be relaxed accordingly. The copy of office memorandum of the Central Government of India dated 19.3.2012 is attached here with as **ANNEXURE P-8.**
5. That the competent authority has over looked and ignored above said office memorandum dated 19.3.2012 of the Central Government , in an arbitrary and illegal manner and wrongly decided the representation moved by the petitioners and wrongly rejected the claim of the petitioners then the action is violative of Aricles 14 and 16 of the Constitution of India .

**22**. That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

1. Where the Rule 10 of the Revised pay Rules is discriminatory and violative of Article 14 & 16 of the Constitution of India?
2. Whether the order (Annexure P-6) passed by the respondent is sustainable in the eyes of law ?
3. Whether the letter dated 16.4.2012 (Annexure P-2) issued by the Finance Department Haryana is applicable to the claim of the petitioners ?
4. Whether a grave manifest injustice has been caused to the petitioner?

**23.**  That there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

**24.**  That the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER :-

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue:

1. writ in the nature of Certiorari to quash the impugned Order dated 12.12.2014 (**AnnexureP-6**) AND
2. further writ in nature of Mandamus directing to the respondents to grant the benefit of order/letter dated 16.4.2012 **Annexure P-2** to the petitioners and thereby grant them one additional increment on 1.1.2006 in the pre-revised pay scale as one time measure and grant them all consequential benefits viz., arrears etc. with interest @ 12 P.A.

iii) Any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law justice and equity.

iv) Filing of true typed copies of Annexures be also dispensed with;

Place:

DATED: (SURESH AHLAWAT) ADVOCATE

Counsel for the petitioners.

*VERIFICATION*

Verified that the contents of Para No. 1 to 21 and 23 to 24 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 22 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed there from.

Place

Date

**LIST OF DATES & EVENTS**

That the petitioners are working as Assistant/Associate Professors in Haryana Government Colleges.

**2008**  That the recommendations of the 6th Central Pay Commission it was suggested that in the revised scheme the date of annual grade increment should be 1st of July every year. In other words, those employees who have completed six months and above in the scale on 1st of July were to be eligible to earn increments. In this way, Haryana Government revised the pay Scale of its employees under the rule HARYANA CIVIL SERVISES (Revised Pay) RULE,2008,hereinafter referred to as Revised Pay Rules. The Revised Pay Rule come in to force on 1st of January .2006.

Accordingly, the pay of all the petitioners was revised in accordance with the 2008 Rules w.e.f. 1.1.2006. In order to achieve uniformity in the date of granting annual grade increment, Rule 10 in the 2008 Rules has been formulated.

That the petitioners are those persons whose date of increment was due in the span of 1st January, 2006 to 30th June, 2006, as they have completed a period of 12 months from the date of last increment. These petitioners have been granted next increment only on 01.07.2006 and as such the span of increment has been extended from 12 months to 17 months. That due to the change of Date of Increment and the period more than 12 months an anomaly has been created in the Rule 10 of the Revised Pay Rules concerning the present petitioners. The petitioners and a large number of persons similarly situated to the petitioners have suffered permanent recurring loss of delayed increments . That the present petitioners have been put into disadvantageous position by Rule 10 of Revised Pay Rules as against the employees who have been granted advance increments before completion of 12 months period, the present petitioners have been granted benefits after completing more than 12 months i.e. 13-17 months, e.g. the person whose next date of increment was 1st February, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 17 months; for 1st March, 2006 after a period of 15 months; for 1st May, 2006 after a period of 14 months and for 1st June, 2006 after a period of 13 months, which is discriminatory and against the provisions of Article 14 & 16 of the Constitution of India.

**20.7.2011** That some effected employees of Haryana Govt. challenged the said action of the respondents before this Hon.ble Court through writ petition no .16975 0f 2010 for quashing the Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires, discriminatory and disadvantageous to the petitioners than, Hon,ble Division Bench allowed the said writ petition on dated 20.7.2011 and quashed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires of Article 14 of the Constitution in respect of those employees who earn their increment between 1st of January to 30th of June.

**16.4.2012** That in compliance of the said order of the Hon,ble High Court, Finance Department Haryana i.e. respondent no.1 issued the Notification/Letter dated 16.4.2012 and relaxed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 and decided that those State Govt. Employees who were due to get their annual increment between February to June,2006 may be granted one increment on 1.1.2006 in the pre revise pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 and pay of the eligible employee be re-fixed accordingly.

That after issuance of the letter dated 16.4.2012 by the Finance department Haryana, has been implemented and anomaly created by Rule 10 removed in all Govt. departments for its regular employees and also implemented all the Universities i.e M.D.Univrsity Rohtak Kurukshetra University and H.A.U. Hissar for the staff of teaching and non-teaching. But in the case of the Govt. College teachers like petitioners, same was not implemented till date.

**29.5.2014** That thereafter the petitioners filed a writ petition no. 11129 of 2014 titles as Dr.Nirmal Boora and Others v/s State of Haryana before this Hob.ble High Court and prayed, directing the respondents to implement letter dated 16.4.2012 issued by the Finance department Haryana and in that petition this Honble High Court has pleased to pass the order on 29.5.2014 vide which said writ petition was disposed of with a direction to the respondent no.1 to considered and decide the legal notice dated 21.1.2014 served by the petitioners with in a period of 3 months from the date of receipt of certified copy.

**12.12.2014** That in compliance of the order of this Hon,ble Court , the petitioners approached the authority i.e. Respondent no.2 Additional Chief Secretary to Govt. of Haryana higher Education Department , with regard to the action on their legal notice and the respondent no.2 had, vide letter dated 12.12.2014 intimated to the petitioners that their notice has been considered and same was rejected by saying that :-

“ As per recommendations of the UGC dated 20.11.2013 there is no provision for grant of one increment w.e.f 1.1.2006 to those whose increments was due between February to June , 2006 and F.D. letter dated 16.4.2012 issued by State Govt. is not applicable to the petitioners”.

Where as it is admitted fact that the Assistant/Associate professors working in the Govt. College are governed by Civil Services Rules as applicable in Haryana but vide notification No. KW 7/18-2009-IV(3) dated 21.7.2011 the State Govt. has adopted the recommendations of the UGC and MHRD with regard to pay scale and in other matters for the maintenance of the standard of Higher Education .Accordingly , the Assistant/Associate Professors working in Govt. Colleges are getting UGC pay scale w.e.f 01.01.2006.

In view of position explained above and letter dated 20.11.2013 issued by the UGC it is evident that the claim of the petitioners is not covered under guidelines.”

30.8.2015 Hence the present writ petition.

DATED: (SURESH AHLAWAT) CHANDIGARH ADVOCATE

Counsel for the Petitioners.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. OF 2015

Vimla Kumari and Others ------ …Petitioners

Versus

State of Haryana and Others. ------ Respondents

AFFIDAVIT OF Dr. Nirmal Boora d/o Sh. Pyare Lal A/Professor presently posted at Govt. College, Sector -1, Panchkula.

I, the above named deponent do hereby solemnly affirm and declare on oath as under: -

1 That the deponent is filling the accompanying Civil Writ Petition. It has been drafted at my instructions.

2. That it is verified that the contents of paras 1 to 21 and paras 23 to 24 are true to my knowledge and that of para 22 are based on legal advice of the counsel believed to be true. No part of it is false and nothing is concealed there from.

CHANDIGARH Deponent

DATED: .9.2015

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH Deponent

Dated:- .9.2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. OF 2015

Vimla Kumari and others …Petitioners

Versus

State of Haryana. and Others. …Respondents

*TOTAL AMOUNT OF COURT FEE AFFIXED*

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : 2.9.2015 COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.\_\_\_\_\_\_\_\_\_ of 2015

Vimla Kumari and Others ----- Petitioners

VERSUS

State of Haryana and others --- Respondents

INDEX

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Particulars | Date | Page No. |
|  | List of Date and Events | 2.9.2015 | 1-5 |
|  | Civil Writ Petition | 2.9.2015 | 6-34 |
|  | Affidavit | .9.2015 | 35 |
|  | Annexure P-1  (High Court Judgment) | 20.7.2011 | 36-47 |
|  | Annexure P-2  (F.D. Letter) | 16.4.2012 | 48-50 |
|  | Annexure P-3  ( letters issued by Universities **(Collectively)** |  | 51-65 |
|  | Annexure P-4  (Legal Notice) | 21.1.2014 | 66-72 |
|  | Annexure P-5  (Order of High Court) | 29.5.2014 | 73-74 |
|  | Annexure P-6  (Impugned Order) | 12.12.2014 | 75-79 |
|  | Annexure P-7 (letter of recommendations of UGC adopted by Department) | 21.7.2011 | 80-88 |
|  | Letter of the Central Govt. of IND.  Annexure P-8 | 19.3.2012 | 89-91 |
|  | Power of Attorney | 20.8.2015 | 92 |

Total Court Fee 550 + 40= Rs.590

Note: 1. The main law points involved in this writ petition are contained in para 22 and page no.

2. Status Rule under Articles 226/227 of Constitution of India and Haryana Civil Services Rule-2008

3. Similar case if any: **CWP no.5975 of 2015** titled as Jagmohinder Singh Rana and Others v/s State of Haryana and Others , Notice of Motion has been issued for **24.9.2015**

4. Caveat Petition If any: Nil

CHANDIGARH (SURESH AHLAWAT)

DATED: 2.9.2015 ADVOCATE

COUNSEL FOR THE PETITIONERS

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.\_\_\_\_\_\_\_\_\_ of 2015

1.Vimla Kumari d/o Sh. Dev Raj Gupta A/Professor ,presently posted at Govt. College, Sector-1, Panchkula. resident of H.No. 816 Sector-10, Panchkula.

**2.** Dr.Nirmal Boora d/o Sh. Pyare Lal A/Professor, presently posted at Govt. College, Sector-1, Panchkula, resident of H.No. 1062 Sector-16, Hissar.

**3.** Smt. Shailja Chhabra d/o Sh. R.P. Sethi A/Professor ,presently posted at Govt. College, Sector-1, Panchkula. resident of H.No.1437 , Sector-4, Panchkula.

**4.** Jai Narayan s/o Sh. Pritam Singh A/Professor, presently posted at Govt. College, Sector-1, Panchkula. resident of H.No 239, Sector-7, A. Chandigarh

**5.** Sunita d/o Sh. Shri Ram A/Professor, presently posted at Govt. College, Naraingarh, Distt. Ambala. resident of H.No. 139- C, HBC, Sector-14.Panchkula.

**6.** Dr. Satya Narayan s/o Sh. Parbhu Dayal A/Professor presently posted at Govt. College for Girls, Sector-14, Panchkula. resident of G.C.W., Rohtak.

**7.** Renu d/o Sh.Dalip Singh A/Professor, presently posted at Govt. College for woman, Rohtak. resident of H.No. 1090, Man Sarovar Colony, Rohtak.

**8.** Anita Singh d/o Sh. A.P. Suhag A/Professor, presently posted at Rajiv Gandhi Govt. College, Saha Distt. Ambala. resident of H.No. 504, GH -33, Sector- 20, Panchkula.

**9.** Dr. Ram Kumar s/o Sh. Surat Singh A/Professor, presently posted at Govt. College for Girls, Sector-14, Panchkula. resident of H.No. 986, Sector- 13, Kurukshetra.

**10.**Kamlesh Sharma d/o Sh.J.K.Sharma A/Professor presently posted at Govt. College, Barwala Distt. Panchkula. resident of C-25, Kendriya Vihar, Society, Sector-14, Panchkula.

**11.** Reeta Gupta d/o Sh. R.S.Choudhary A/Professor, presently posted at Govt. College, Sector-1, Panchkula. resident of H.No.455, Sector-2, Panchkula.

**-------------Petitioners**

**VERSUS**

**1.** State of Haryana through its Financial Commissioner -cum- Principal Secretary, Finance Department, Civil Secretariat, Chandigarh.

**2.** State of Haryana through its Financial Commissioner -cum- Principal Secretary, Department of Higher Education, Civil Secretariat Sector-17, Chandigarh.

**3.** Director-General, Department of Higher Education Haryana, Siksha Sadan Sector-5, Panchkula.

**4.** University Grant Commission, through its Chairman, Bahadur Shah Zafar Marg, New Delhi.110002.

**------------ Respondents**