CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Mandamus directing to the respondents to grant the benefit of one additional increment on 1.1.2006 in the pre-revised pay scale as one time measure, in terms of letter dated 16.4.2012 issued by the Financial Department Haryana (**Annexure P-** 1) and the decision in CWP no 20812 of 2015 titled as Vimla Kumari and others versus State of Haryana **( Annexure P-2)** to the petitionersand 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 regular working in the Higher 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 regular A/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 regular 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 Pay 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. No. Name of the Annual increment Annual increment Annual**

Petitioner due date given on granted after delay of

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1. Ruchira Khullar Feb.2006 1.7.2006 17 months

2. Dr. Ramesh K. Mehra Feb. 2006 1.7.2006 17 Months

3. Sube Singh March-2006 1.7.2006 16 months

4. Dr. Balwinder March-2006 1.7.2006 16 months

A perusal of the aforesaid table would show that increment of petitioner at Sr.no.1 has been released after 17 months and petitioner at Sr. no. 3 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 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.

**11.** 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.

**12.** 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.

**13.** 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-1**.

**14.** 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.

**15.** 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-1) but even thereafter, respondents are not implementing the said letter.

**16.** That some of the A/Professors of Govt. Colleges approached this Hon’ble High Court by filing the CWP no 20812 of 2015 titled as Vimla Kumari and others v/s State of Haryana directed to respondents to grant the benefit of one additional increment vide letter date 16.4.2012 issued by the Finance department Haryana on 25.7.2017. Hon’ble High Court allowed this writ petition with cost and directed to respondents to grant the said benefit within three months and now this judgment has been fully complianced . A Copy of the said judgment dt. 25.7.2017 is being attached herewith as **ANNEXURE P-2**

**17 .** That the petitioners represented to the respondents through Principal of the College to grant the same benefit but the respondents granted the said benefit only those persons who approached this Hon’ble High Court, than lastly petitioners also approached to the respondents to grant the same benefit by serving the legal notice dated 20.3.2019 through their counsel but respondents did not considered this genuine demand and compelled to the petitioners to approached this Hon’ble Court for filing this writ petition. A Copy of the legal notice dt. 20.3.2019 is being attached herewith as **ANNEXURE P-3.**

It is a settled principle of law settled by the Division Bench of this Court in case 'Satbir Singh Vs. State of Haryana, 2002(2) S.C.T. 354 wherein a Division Bench of this Court has held that when the judgment attain finality, duty is casted upon the State to grant relief to all the similarly situated employees. It is not necessary for the State to require each one of its employees to approach the Courts of law for the grant of a relief which the State ought to grant the employees in normal course of its administration .

**18**. 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 letter dated 16.4.2012 (Annexure P-2) issued by the Finance Department Haryana is applicable to the claim of the petitioners ?
3. Whether a grave manifest injustice has been caused to the petitioner?

**19.**  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.

**20.**  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:

i) writ in the nature of Mandamus directing to the respondents to grant the benefit of one additional increment on 1.1.2006, in the pre-revised pay scale, as one time measure in terms of letter dated 16.4.2012 issued by the Financial Department Haryana (**Annexure P-** **1)** and further decision in C.W.P. no 20812 of 2015 titled as Vimla Kumari and others versus State of Haryana **( Annexure P-2)** to the petitionersand grant them all consequential benefits along with interest @12% P.A. AND ii) 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 17 and 19 to 20 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 18 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 regular A/ Professors in deferent 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 Govt regular 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 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 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.

**25.7.2017** That some of the A/Professors of Govt. Colleges approached this Hon’ble High Court by filing the CWP no 20812 of 2015 titled as Vimla Kumari and others v/s State of Haryana directed to respondents to grant the benefit of one additional increment in accordance of the letter dated 16.4.2012 issued by the Finance department Haryana, same was allowed on 25.7.2017 with cost. (Annexure P-2) Where as, this benift is not granted to the petitioners and legal Notice of the petitioners is pending.

Hence the present writ petition.

DATED: 23.4.2019 (SURESH AHLAWAT) CHANDIGARH ADVOCATE

Counsel for the Petitioners.