

Before Jasbir Singh & K.C. Puri, JJ.

OM PARKASH AND OTHERS,—Petitioners

versus

STATE OF HARYANA AND OTHERS,—Respondents

C.W.P. No. 18601 of 2006

10th April, 2008

Constitution of India, 1950—Art. 226—Haryana Civil Services (Revised Pay) Rules, 1998—RI. 7—Assured Career Progression Rules, 1998—RI. 15—Instructions dated 22nd August, 2003 issued by State of Haryana—Revision of pay scales—Haryana Government adopting recommendations of Central 5th Pay Commission—Fixation of pay of petitioners under RI. 7(i) (a) of Revised Pay Rules 1998 after giving benefit of admissible bunching in revised grades—Petitioners granted benefit of one increment in revised pay scale for every three increments—Government by issuing instructions dated 22nd August, 2003 reducing increments of petitioners—Last provisos to RI. 7 of Revised Pay Rules and RI. 15 of ACP Rules lay down that where in fixation of pay, pay of Government servants drawing pay at more than four consecutive stages in an existing scale get bunched—Scheme envisages that stages in present scale have to be taken into account while fixing pay of employee—Plea of respondents that petitioners earned only two ‘actual’ increments which is less than 3 increments in present scale is against spirit of Revised Pay Rules—Original scheme explains stages in present scale and not ‘actual’ increment earned—Petitions allowed, instructions dated 22nd August, 2003 and order withdrawing increments quashed.

Held, that the pay of the petitioners has been fixed at minimum of the revised scale. Taking up the case of Om Parkash petitioner, it is found that the scale of Om Parkash was Rs. 1,400—2,600 on 31st December, 1995 and the revised scale is Rs. 5,450—8,000. After giving benefit of 40% increase in the basic pay, dearness allowance, interim

reliefs, the total pay in respect of Om Parkash petitioner comes to Rs. 5017. There is no dispute in respect of these calculations upto clause 8 in Annexure P-2. The dispute between the parties starts from giving benefit of one increment, in lieu of three increments for the service rendered by petitioner Om Parkash. *Vide* Annexure P-2, Om Parkash petitioner was granted basic pay of Rs. 5,750 but later on, *vide* Annexure P-6 his basic pay as on 1st January, 1996 was fixed at Rs. 5,450 and the recovery of arrears of pay given to petitioner Om Parkash has been sought to be effected from him. The reason given by the respondents is that since Om Parkash has earned only two increments in the present scale of Rs. 1400—2600 which is less than three increments in the present scale, as such, his pay is to be fixed at the minimum, in view of instructions dated 22nd August, 2003, Annexure P-6. This approach of the respondents is against the spirit of Revised Pay Rules, 1998 and ACP Rules, 1998. The last proviso to Rule 7 of the Revised Pay Rules and last proviso to Rule 15 of ACP Rules are relevant. These provisos lay down that where in the fixation of pay, the pay of Government servants drawing pay at more than four consecutive stages in an existing scale get bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first four consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs as mentioned in the above said rules by the grant of increments in the revised scale.

(Para 18)

Further held, that the Revised Pay Rules, 1998 and ACP Rules, 1998 deal with grant of increments in the “revised scale”, keeping in view the stages where the employee was getting the pay in the present scale. The previous pay revision has taken place from 1st January, 1986. In case the intention of these Rules was to grant increments according to the year of service, in that case, no employee could have reached more than 10th stage between 1st January, 1986 to 1st January, 1996. The scheme envisaged the grant of increment even up to 16th stage which clearly shows that the stages in the present scale have to be taken into account while fixing the pay of the employee and not the

“actual” increments earned in the present scale.
(Para 19)

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Umesh Narang, Advocate
Sushil Bhardwaj, Advocate
H. N. Khanduja, Advocate
Ashok Kaushik, Advocate
R. N. Sharma, Advocate
R. S. Sangwan, Advocate
L. R. Nandal, Advocate
Gunjan Mehta, Advocate
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Navneet Chhokar, Advocate
Sumeet Goel, Advocate
Sandeep K. Yadav, Advocate
Sandeep Kumar, Advocate
A. K. Rathee, Advocate
Subhash Ahuja, Advocate
Amit Prashar, Advocate
Sanjeev Kodan, Advocate
Narender Hooda, Advocate
P. L. Verma, Advocate
S. N. Pillania, Advocate
S. P. Laler, Advocate
Sailender Singh, Advocate
Ravi Verma, Advocate
S. K. Jain, Advocate
Yadvinder Singh, Advocate

Rameshwar Sharma, Advocate

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H. S. Hooda, Advocate General with M.S. Sindhu, Deputy
Advocate General, Haryana, for the respondents.

K. C. PURI, J.

JUDGMENT

(1) *Vide* this judgment, we intend to dispose of the following writ petitions, as the same questions of law and facts are involved in all these writ petitions :—

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| 1. CWP No. 18601 of 2006 | Om Parkash & others <i>versus</i>
State of Haryana & others |
| 2. CWP No. 4813 of 2005 | Kharak Singh <i>versus</i>
State of Haryana and others |
| 3. CWP No. 13225 of 2006 | Shiv Dayal & others <i>versus</i>
State of Haryana and another |
| 4. CWP No. 13867 of 2006 | Chhaju Ram & others <i>versus</i>
State of Haryana & others |
| 5. CWP No. 15109 of 2006 | Hari Ram <i>versus</i> State of
Haryana & others |
| 6. CWP No. 16124 of 2006 | Dharam Pal <i>versus</i>
State of Haryana & others |
| 7. CWP No. 19964 of 2006 | Prem Latta <i>versus</i>
State of Haryana and others |
| 8. CWP No. 8386 of 2006 | Nagar Mal <i>versus</i>
State of Haryana and others |
| 9. CWP No. 10040 of 2007 | Hoshiar Singh & others another
<i>versus</i> State of Haryana nothers |
| 10. CWP No. 10814 of 2007 | Sarup Singh & others <i>versus</i>
State of Haryana and anothers |

11. CWP No. 11988 of 2007 Inder Singh *versus* State of Haryana and others
 12. CWP No. 12005 of 2007 Satpal & others *versus* State of Haryana and others
 13. CWP No. 12458 of 2007 Jagir Singh & another *versus* State of Haryana and others
 14. CWP No. 1554 of 2007 Veena Rani & other *versus* State of Haryana and others
 15. CWP No. 2358 of 2007 Sukhbir Singh & other *versus* State of Haryana & others
 16. CWP No. 2672 of 2007 Kazan Singh & other *versus* State of Haryana and others
 17. CWP No. 27 of 2007 Ram Chander *versus* State of Haryana and others
 18. CWP No. 4347 of 2007 Om Parkash *versus* State of Haryana and others
 19. CWP No. 5100 of 2007 Prem Singh & other *versus* State of Haryana & others
 20. CWP No. 6731 of 2007 Sudesh Makkar & other *versus* State of Haryana & others
 21. CWP No. 8105 of 2007 Getta Devi *versus* State of Haryana and others
 22. CWP No. 8639 of 2007 Rajinder Singh & other *versus* State of Haryana & others
 23. CWP No. 10158 of 2006 Ishwar Dutt Sharma *versus* State of Haryana and anothers
 24. CWP No. 11200 of 2006 Surat Singh *versus* State of Haryana and others
 25. CWP No. 10665 of 2006 Dharam Pal & others *versus* State of Haryana and others
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| 26. CWP No. 10573 of 2006 | Balkar Singh & other <i>versus</i>
State of Haryana & others |
| 27. CWP No. 11475 of 2006 | Mohinder Singh & others <i>versus</i>
State of Haryana & others |
| 28. CWP No. 12050 of 2006 | Dharam Pal & others <i>versus</i>
State of Haryana and others |
| 29. CWP No. 8445 of 2006 | Bal Chandrika & others <i>versus</i>
State of Haryana and others |
| 30. CWP No. 2657 of 2006 | Asha Garg & others <i>versus</i>
State of Haryana and others |
| 31. CWP No. 9714 of 2006 | Ram Singh & others <i>versus</i>
State of Haryana and others |
| 32. CWP No. 8309 of 2006 | Balbir Singh <i>versus</i>
State of Haryana and others |
| 33. CWP No. 16800 of 2006 | Satyavir & others <i>versus</i>
State of Haryana and others |
| 34. CWP No. 14246 of 2006 | Dharambir Singh & other <i>versus</i>
State of Haryana & others |
| 35. CWP No. 12899 of 2006 | Sukhwinder Kaur <i>versus</i>
State of Haryana & others |
| 36. CWP No. 18768 of 2006 | Chander Devi <i>versus</i>
State of Haryana and others |
| 37. CWP No. 19647 of 2006 | Ramkesh <i>versus</i>
State of Haryana and another |
| 38. CWP No. 5808 of 2006 | Krishan Dev Singh & others <i>versus</i>
State of Haryana & others |
| 39. CWP No. 6576 of 2006 | Amir Chand & others <i>versus</i>
State of Haryana & others |
| 40. CWP No. 4049 of 2006 | Shashi Prabha <i>versus</i>
State of Haryana and others |
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41. CWP No. 3849 of 2006 Dharamvir Singh *versus*
State of Haryana and another
 42. CWP No. 3949 of 2006 Rohtas Singh *versus*
State of Haryana and another
 43. CWP No. 4314 of 2006 Khajano Devi *versus*
State of Haryana and others
 44. CWP No. 8459 of 2006 Renu Bala & others *versus*
State of Haryana and others
 45. CWP No. 20360 of 2006 Rishi Parkash & others *versus*
State of Haryana and others
 46. CWP No. 18775 of 2006 Lal Singh *versus*
State of Haryana and others
 47. CWP No. 426 of 2008 Bhikhu Ram *versus*
State of Haryana and others
 48. CWP No. 9711 of 2006 Suraj Parkash & others *versus*
State of Haryana & others
 49. CWP No. 18089 of 2007 Ram Parkash & others *versus*
State of Haryana & others
 50. CWP No. 772 of 2005 Ranvir Singh & others *versus*
State of Haryana and others
 51. CWP No. 10693 of 2004 Balewant Singh etc. *versus*
State of Haryana and others
 52. CWP No. 12450 of 2004 Bharat Singh etc. *versus*
State of Haryana and others
 53. CWP No. 12117 of 2005 Laxmi Devi *versus*
State of Haryana and others
 54. CWP No. 1248 of 2005 Santosh Kumari & others *versus*
State of Haryana and others
 55. CWP No. 1362 of 2005 Tripta Devi *versus*
State of Haryana and others
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56. CWP No. 16640 of 2005 Daya Nand & others *versus*
State of Haryana and others
57. CWP No. 3105 of 2005 Om Pati & others *versus*
State of Haryana and others
58. CWP No. 8320 of 2005 Khazan Singh & others *versus*
State of Haryana and others
59. CWP No. 6482 of 2006 Udai Singh & others *versus*
State of Haryana and others
60. CWP No. 7618 of 2006 Ambika Parsad & others *versus*
State of Haryana & others
61. CWP No. 10407 of 2007 Shiksha Devi *versus*
State of Haryana and others
62. CWP No. 4999 of 2004 Guljari Lal etc. *versus*
State of Haryana and another
63. CWP No. 15681 of 2004 Raj Roop Mehalwat & others *versus*
State of Haryana and others
64. CWP No. 8260 of 2004 Janki Devi & others *versus*
State of Haryana etc.
65. CWP No. 3111 of 2005 Darshna Devi & others *versus*
State of Haryana and another
66. CWP No. 6372 of 2005 Noke Ram & others *versus*
State of Haryana etc.
67. CWP No. 7453 of 2005 Satbir Singh etc. *versus*
State of Haryana and others
68. CWP No. 12272 of 2006 Karambir Singh & others *versus*
State of Haryana & another
69. CWP No. 14376 of 2006 Santosh Sharma *versus*
State of Haryana and others
70. CWP No. 5079 of 2006 Luxmi Devi & another *versus*
State of Haryana and others
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71. CWP No. 7405 of 2006 Ram Kumar & others *versus*
State of Haryana
72. CWP No. 8369 of 2006 Shri Bhagwan & others *versus*
State of Haryana and others
73. CWP No. 10792 of 2006 Bhagat Singh & others *versus*
State of Haryana & others
74. CWP No. 14754 of 2006 Satya Parkash & others *versus*
State of Haryana & others
75. CWP No. 20516 of 2006 Kartar Singh & others *versus*
State of Haryana and others
76. CWP No. 2848 of 2007 Sain Ditta *versus*
State of Haryana and others
77. CWP No. 18480 of 2006 Sultan Singh *versus*
State of Haryana and others
78. CWP No. 18526 of 2006 Rajinder Parkash & others *versus*
State of Haryana & others
79. CWP No. 5218 of 2007 Ram Kumar & others *versus*
State of Haryana & another
80. CWP No. 19498 of 2006 Sube Singh & others *versus*
State of Haryana and others
81. CWP No. 12556 of 2007 Charan Singh & others *versus*
State of Haryana & another
82. CWP No. 14255 of 2007 Satdev Singh & others *versus*
State of Haryana & another
83. CWP No. 17889 of 2007 Dharamvir *versus*
State of Haryana and others
84. CWP No. 18148 of 2007 Tek Ram & others *versus*
State of Haryana and others
85. CWP No. 2580 of 2007 Suraj Pal *versus* Directioin
Education, Haryana & another
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86. CWP No. 5688 of 2007 Mehar Singh Chauhan & others
versus State of Haryana & others
87. CWP No. 7865 of 2007 Darshan Kumari & others *versus*
State of Haryana & another
88. CWP No. 7909 of 2007 Barhmi Devi & others *versus*
State of Haryana and others
89. CWP No. 7936 of 2007 Prem Kaur & others *versus*
State of Haryana and others
90. CWP No. 1807 of 2008 Om Parkash & others *versus*
State of Haryana and others
91. CWP No. 1823 of 2008 Birbal Singh & others *versus*
State of Haryana and others
92. CWP No. 2222 of 2008 Hans Raj & another *versus*
State of Haryana and others
93. CWP No. 738 of 2008 Ratti Devi & others *versus*
State of Haryana and others
94. CWP No. 1443 of 2007 Anand Parkash & others *versus*
State of Haryana & another
95. CWP No. 3616 of 2007 Jai Parkash & others *versus*
State of Haryana and another
96. CWP No. 13484 of 2007 Azad Singh & others *versus*
State of Haryana and another
97. CWP No. 5733 of 2007 Om Parkash & others *versus*
State of Haryana and another
98. CWP No. 17814 of 2007 Nathu Ram & others *versus*
State of Haryana and others
99. CWP No. 436 of 2008 Prithvi Singh & others *versus*
State of Haryana and another
100. CWP No. 16506 of 2007 Ramesh Chander & others *versus*
State of Haryana & another
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101. CWP No. 4455 of 2007 Gargi Rathi *versus*
State of Haryana and others
 102. CWP No. 6397 of 2007 Nand Lal & others *versus*
State of Haryana and others
 103. CWP No. 6836 of 2007 Chaman Lal *versus*
State of Haryana and others
 104. CWP No. 7401 of 2007 Raj Singh & others *versus*
State of Haryana and another
 105. CWP No. 11224 of 2007 Chhabil Singh & another *versus*
State of Haryana & others
 106. CWP No. 13427 of 2007 Dharam Pal & others *versus*
State of Haryana and others
 107. CWP No. 14794 of 2007 Manju Sharma *versus*
State of Haryana and others
 108. CWP No. 15316 of 2007 Partap Singh *versus*
State of Haryana and others
 109. CWP No. 17184 of 2007 Sheela Devi *versus*
State of Haryana and others
 110. CWP No. 17751 of 2007 Pushpa Devi *versus*
State of Haryana and others
 111. CWP No. 17759 of 2007 Ram Avtar & others *versus*
State of Haryana and others
 112. CWP No. 18890 of 2007 Duli Chand Sharma *versus*
State of Haryana and others
 113. CWP No. 1438 of 2008 Om Parkash and others *versus*
State of Haryana & another
 114. CWP No. 1685 of 2008 Gurmukh Singh *versus*
State of Haryana and others
 115. CWP No. 2430 of 2008 Attvar Singh & another *versus*
State of Haryana and others
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116. CWP No. 2452 of 2008 Ram Chander & others *versus*
State of Haryana & others
117. CWP No. 2576 of 2008 Karan Singh & another *versus*
State of Haryana & others
118. CWP No. 2670 of 2008 Arjun Singh & another *versus*
State of Haryana & others
119. CWP No. 2886 of 2008 Raghbir Singh *versus*
State of Haryana and another
120. CWP No. 2978 of 2008 Jasmer Singh *versus*
State of Haryana and others
121. CWP No. 3090 of 2008 Raghubir Singh *versus*
State of Haryana etc.
122. CWP No. 3135 of 2008 Mahavir Singh & another *versus*
State of Haryana & others
123. CWP No. 3162 of 2008 Tek Chand Sharma and others *versus*
State of Haryana and others
124. CWP No. 15037 of 2004 Smt. Urmila Devi *versus*
State of Haryana and others
125. CWP No. 1039 of 2005 Umed Singh Malik & others *versus*
State of Haryana etc.
126. CWP No. 16795 of 2004 Ram Singh & others *versus*
State of Haryana etc.
127. CWP No. 2939 of 2005 Mahavir Singh & others *versus*
State of Haryana & others
128. CWP No. 4819 of 2005 Kamlesh Devi etc. *versus*
State of Haryana etc.
129. CWP No. 5835 of 2006 Sudesh Malik & others *versus*
State of Harayana & others
130. CWP No. 6520 of 2007 Anop Singh Khatri *versus*
State of Haryana and others
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| 131. CWP No. 8085 of 2005 | Ishwar Singh & others <i>versus</i>
State of Haryana and others |
| 132. CWP No. 9934 of 2005 | Jagdish Chander & others <i>versus</i>
State of Haryana etc. |
| 133. CWP No. 3585 of 2008 | Datawanti <i>versus</i>
State of Haryana and others |
| 134. CWP No. 3908 of 2008 | Sunita Bakshi & others <i>versus</i>
State of Haryana & another |
| 135. CWP No. 4520 of 2008 | Zile Singh <i>versus</i>
State of Haryana and others |
| 136. CWP No. 4884 of 2008 | Harkesh Chander & others <i>versus</i>
State of Haryana & others |
| 137. CWP No. 4891 of 2008 | Bahadur Chand & others <i>versus</i>
State of Haryana & others |
| 138. CWP No. 4916 of 2008 | Gurmesh Kumari & others <i>versus</i>
State of Haryana & others |
| 139. CWP No. 18633 of 2007 | Sarup Singh and others <i>versus</i>
State of Haryana & others |
| 140. CWP No. 1839 of 2007 | Jagdish Rai and others <i>versus</i>
State of Haryana & others |
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(2) The facts have been extracted from CWP No. 18601 of 2000 titled as **Om Parkash and others versus State of Haryana and others.**

(3) Petitioners of all these cases have challenged the order dated 22nd August, 2003 (Annexure P-6) and the order,—*vide* which the pay of the petitioners has been reduced and order of recovery which has been made against the petitioners.

(4) The case of the petitioners is that they were working as JBT Teachers/Head Teachers or C&V Teachers in Haryana Education Department and their pay scales have been revised under the Haryana Civil Services (Revised Pay) Rules, 1998, applicable with effect from

1st January, 1996. The pay of the petitioners was fixed in the months of January, February and March 1998 and got verified from the Section Officer of the concerned office. The pay of the petitioners was fixed under Rule 7(i) (a) of the Revised Pay Rules, 1998 after giving the benefit of admissible bunching in the revised grades. The employees, i.e. the petitioners were rightly granted one increment in the revised scale of pay for every three increments (inclusive of stagnation increment), if any in the present scale of pay. The respondent-department had withdrawn the benefit of bunching from the teachers as teachers were not in the ambit of Assured Career Progression Rules, 1998. Their pay was to be fixed under the Revised Pay Rules, 1998 and 3rd proviso of Rule 7(i)(a) by which provision of stepping up has been allowed in the existing scale of pay only. For adjudication of the matter, the definition of the existing scale and functional scale in the Revised Pay Scale 1998 and definition of existing scale, functional pay scale and present pay scale in Assured Career Progression Rules, 1998 (hereinafter to be mentioned as ACP Rules, 1998) is relevant.

(5) The employees, whose pay was fixed under the Revised Pay Rules, 1998, were not entitled for the bunching in their existing pay scales, so the benefit of bunching from teachers was withdrawn. Teachers approached the High Court with the grievance of discrimination as the other employees of the State were allowed the benefit of ACP Scales under the ACP Rules, 1998. The respondent-department put on record the notification dated 18th July, 2001 (Annexure P-5) in the High Court and made a statement that benefit of the aforesaid notification will be worked out and will be given to the concerned persons within one year. In view of the said statement, CWP No. 15105 of 1999 (Annexure P-4) was disposed of Rule 15 of the ACP Rules, 1998 concerns with the fixation of initial pay in the 1st or 2nd ACP Scale. All the petitioners have completed 10/20 years of regular and satisfactory service, so their pay was refixed under Rule 15 of the ACP Rules, 1998 applicable with effect from 1st January, 1996. In view of the above clear cut provisions, the petitioners were granted the benefit of one increment in the revised scale of pay of every three increments with effect from 1st January, 1996 and accordingly the pay of the petitioners was fixed. But on 22nd August, 2003, a letter was circulated by the

Finance Department, copy of which is annexed as Annexure P-6. In compliance of Annexure P-6, the pay of the petitioners was refixed by reducing one or two increments with the condition of recovery of excess payment. The refixation order dated 24th May, 2006 made regarding petitioner No. 1 is Annexure P-7. The said impugned order dated 22nd August, 2003 (Annexure P-6) and 24th May, 2006 (Annexure P-7) are arbitrary, illegal, unjust and contrary to the Revised Pay Rules and ACP Rules, 1998 and need to be quashed. The said instructions (Annexure P-6) are contrary to the statutory rules.

(6) The petitioners have been granted increment in the revised scale in consonance with Rule 15 of the ACP Rules, 1998. The order had been passed in contravention of notification dated 18th July, 2001 (Annexure P-5) and against the order passed by the High Court in CWP No. 15105 of 1999 (Annexure P-4). No recovery could be effected from the petitioners as there is no concealment or misrepresentation on the part of the petitioners.

(7) Respondents filed the written statement defending the action taken in Annexure P-7. The State has also defended the order dated 22nd August, 2003 (Annexure P-6) and has pleaded that pay of petitioners was inadvertently fixed contrary to the rules and keeping in view Rules (Annexure P-6), the clerical error has been corrected. The petitioners have no case.

(8) We have heard both the parties at length and have gone through the record of the case.

(9) The controversy in the present lis relates to interpretation of Rule 15 of the ACP Rules, 1998 on account of revision of pay of Government employees of State of Haryana on account of implementation of 5th Pay Commission. The relevant portion of that Rule is reproduced hereunder for properly understanding the facts of the present case :—

“15. Fixation of initial pay in the First or Second ACP Scale as the case may be :-(1) The initial pay of a Government servant who is governed by these rules and who elects or is deemed to have elected under sub rule (4) of rule 14 to be governed by the Revised First ACP Scale or Revised Second

ACP Scale of pay, as the case may be, on and from the 1st day of January, 1996, shall unless in any case the Government by special order otherwise directs, be fixed in the Revised First ACP scale or Revised Second ACP scale, as the may be, depending upon his eligibility, in the following manner :—

- (a) In the case of all Government servants :
- (i) an amount representing 40 percent of the basic pay in the present scale shall be added to the 'existing emoluments' of the employee :
 - (ii) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage equal to such computed amount in sub-rule (1) above and in case, there is no such stage in the revised scale equal to such computed amount in sub-rule (1) above, at the stage next above the amount thus computed in the revised scale :

Provided that-

- (a) if the minimum of the revised scale is more than the amount so computed in sub-rule (1) above, the pay shall be fixed at the minimum of the revised scale ;
- (b) if the amount so computed in sub-rule (1) above is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale :

Provided further that where in the fixation of pay, the pay of Government servant drawing pay at more than four consecutive stages in a present scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first four consecutive stages in the present scale shall be stepped up to the stage where such bunching occurs, as under, by the grant of

increment(s) in the revised scale in the following manner, namely :—

- (a) for Government servants drawing pay from the 5th up to the 8th stage in the present scale by one increment.
- (b) for Government servants drawing pay from the 9th up to the 12th stage in the present scale, if there is bunching beyond the 8th stage-by two increments.
- (c) for Government servants drawing from the 13th upto the 16th stage in the present scale, if there is bunching beyond the 12th stage by three increments.

Provided further that-the fixation thus made shall ensure that every employee will get atleast one increment in the revised scale of pay for every three increments (inclusive of stagnation increments), if any in the present scale of pay.

EXPLANATION : For the purpose of this clause “existing emoluments” shall include,

- (a) the basic pay in the present scale ;
 - (b) dearness allowance appropriate to the basic pay admissible at index average 1510 (1960=100) and ;
 - (c) the amounts of first and second instalment of interim relief admissible on the basic pay in the present scale;
- (B) in the case of Government servants who are in receipt of one or more categories of special pay/allowance in addition to pay in the present scale which has been prescribed with a revised scale of pay without some or all such special pay/allowance, pay shall be fixed in the revised scale in accordance with the provisions of clause (A) above except that in such cases “existing emoluments” shall include,—
- (a) the basic pay in the present scale;
 - (b) present amount of all such special pay/allowances, which have been discontinued.

- (c) admissible dearness allowance appropriate at index average 1510 (1960=100) under the relevant orders; and
- (d) the amounts of first and second instalments of interim relief admissible on the basic pay in the present scale.

EXPLANATION : In certain categories of Government servants two or more categories of special pay or allowances may be merged and a unified special pay or allowance may be prescribed. In such cases, the categories of special pay/allowances which may be merged and substituted by a unified special pay/allowances, will not be considered as special pay/allowances which have been discontinued for the purposes of calculations under this sub-rule.

- (c) In the case of Government servants who are in receipt of special pay component with any other nomenclature in addition to pay in the present scales, such as personal pay for promoting small family norms, etc., and in whose case the same has been replaced in the revised scale with corresponding allowance/pay at the same rate or at a different rate the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above. In such cases, the allowance at the new rate, as recommended shall be drawn in addition to pay in the revised scale of pay ;
- (D) In the case of medical officers who are in receipt of Non-Practising Allowance (NPA), the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above except that in such cases the term “existing emoluments” shall not include NPA and dearness allowance on NPA and will comprise only the following :—
 - (a) the basic pay in the present scale ;
 - (b) dearness allowance appropriate to the basic pay admissible at index average 1510 (1960=100) under the relevant orders; and

- (c) the amounts of first and second instalments of interim relief admissible on the basic pay in the present scale and non-practising allowance under the relevant orders and in such cases, non-practising allowance at the new rates shall be drawn in addition to the pay so fixed in the revised scale.

(10) The definition of pay scale, functional pay scale and the present scale which are contained Rule 3 (c), (d) and (j) are also relevant. The same are also reproduced as under :-

“3(c) “existing scale” in relation to any post or any Government servant means the functional pay scale as on 31st December, 1995 prescribed for the post or the post held by the Government servant, as the case may be.

(d) “functional pay scale” in relation to a Government servant means the pay scale which is prescribed for the post held by the Government servant. It does not mean any other pay scale in which the Government is drawing his pay as a personal measure to him with any other justification like based on length of service, or on higher/additional qualification or on upgradation of pay scale due to any other reason :

Provided that where functional pay scale have not been provided to the posts in any cadre and the cadre is not stratified in terms of posts in the hierarchy alongwith specified different functional pay scales, as in the case of Haryana Civil Services (Executive), the pay scale based on the position of Government servant in the cadre shall be deemed to be the functional pay scale for the purposes of these rules.”

(j) present scale”-In relation to any Government servant who falls within the scope of these rules means the pay scale in which such government servant was drawing his pay prior to 31st December, 1995, if such pay scale happened to be

different than the functional pay scale prescribed for the post on which such Government servant was working.”

(11) The Central Government accepting the recommendations of Fifth Pay Commission, revised pay scales of its employees. The State of Haryana adopting the recommendations of Fifth Pay Commission revised the pay scales of its employees with effect from 1st January, 1996 through Revised Pay rules, 1998 adopted *vide* notification No. GSR3/Const./Art. 309/98 dated 7th January, 1998. The State of Haryana also framed ACP Rules, 1998 and *vide* notification No. GSR4/Const./Art. 309/98 dated 7th January, 1998, those Rules were made applicable to the employees. ACP Rules, 1998 were initially not made applicable to certain categories of employees including the teachers. Teachers filed Civil Writ Petition No. 15105 of 1999 on the ground that they have been discriminated with the other Government employees. During the pendency of that Civil Writ petition, the State of Haryana issued notification dated 18th July, 2001, Annexure P-5 *vide* which the ACP Rules, 1998 were made applicable to teachers also. Some of the petitioners got promotion and some of them were placed in ACP Scale. The petitioners were in the pay scale of Rs. 1200-2040 prior to their promotion or placing them in ACP Scale and the petitioners were placed in the scale of Rs. 1400-2640 on account of their promotions or placing them in ACP scales. The ACP scales for school teaching staff is given as under, as per Annexure P-5 :-

“ACP Scale for school teaching staff is hereby inserted alongwith the following thereunder :-

Functional Pay Scale of the post on 31st Dec., 1995 on which the Govt. servant was directing recruited scale.	Revised Functional pay scale of the post as on 1st Jan., 1996.	First Assured Career Progression pay scale.	Assured Career Progression Pay.
1. 1200-2040	4500-7000	5450-8000	5500-9000
2. 1400-2600	5500-9000	6500-9000	6500-10500

(12) The pay of petitioner No. 1, according to Haryana Civil Services (Revised Pay), Rules, 1998 was calculated by the respondents as under :-

“Statement of fixation of pay under Haryana Civil Services (Revised Pay) Rules, 1998.

1. Name of the Government Servant : Om Parkash
2. Designation of the post in which : JBT
pay is to be fixed as on 1st January,
1996.
3. Status (Substantive/Officiating) : Off.
4. Pre-revised scale (s) of pay : 1400-40-160050
applicable for the Post : 2300-EB-60-2600.
5. Existing emoluments as on
31st December, 95:
 - (a) Basic Pay (including stagnation : Rs. 1650
increment, if any).
 - (b) Special Pay (only such Special :
Pay to be considered for pay
fixaiton under Rule 7(11)(B).
 - (c) Dearness Allowance applicable : Rs. 2442
at AICPI average 1510
(1960=100)
 - (d) Interim Relief (1st instalment): 100
 - (e) Interim Relief (2nd instalment): 165
 - (f) Total existing emoluments : 4357
(a) to (e)
6. Fitment weightage (40% of Basic Pay). 660
7. Total [Sl. Nos. 5(f) & 6]: 5017
8. Applicable revised scale of pay : 5450-8000
corresponding to the pre-revised
scale shown at Sl. No. 4 above:

9. (a) Stage in the revised scale of pay at which pay is to be fixed in terms of sub-rule 1(A), 1(B), 1(C) or 1 (D) and the rist proviso as the case may be, excluding the benefit of bunching as envisaged in the Second Proviso to Sub-Rule 1(A) of Rule 7: 5750
- (b) Number of increments due on account of bounching (Second Proviso to Sub-Rule 1(A) of Rule 7).
- (c) Stage in the revised scale of pay is to be fixed including the benefit on account of bunching: 5750
- (d) Stage in the revised of pay at which pay is to be fixed so as to ensure at least one increment in the revised scale for every three increments in the pre-revised scale (Third proviso of Sub-Rule 1(A) of Rule 7): 5750
10. Pay fixed in the applicable revised scale of Pay (Stage of pay at Sl. No. 9(c) or 9(d) whichever is higher: 5750
11. Stepped up pay with reference to the revised pay of Junior, if applicable and also the name, pay and pay scale of the Junior also to be indicated distinctly, and the rule under which the stepping up is permissible: -
12. Revised pay with reference to the substantive pay in case where -

pay fixed in the officiating post
is lower than the pay fixed in the
substantive post, if applicable.

13. Personal pay, if any.-
(Note 5 below Rule 7(1))
14. Revised emoluments after fixation.
 - (a) Pay in the revised scale: 5750
 - (b) Special pay, if admissible -
(Sub rule 1(C) of Rule 7)
 - (c) Personal pay, if admissible -
(Note 5 below Rule 7(1))
 - (d) Non-Practising allowance, if -
applicable.
15. Date of next increment and 1-4-96
pay after grant of increment:
Date of increment : 1-4-96
Pay after increment : 5900
16. Any other relevant information :

Pay verified Rs. 5760 on	Sd/-
1st January, 96 in the scale of	Block.Education Officer,
Rs. 5480-8000 with DONI	Jind.
1st April, 96.	16th April, 1998.”

(13) The State of Haryana issued instructions, Annexure P-6, dated 22nd August, 2003 making the following provision under 3rd proviso to Rule 7 of the Revised Pay Rules, 1998 and 3rd proviso to Rule 15 of the ACP Rules, 1998 : _

“3rd Proviso to Rule 7:

Provided further the fixation thus made shall ensure that every employee will get atleast one increment in the revised scale of pay for every three increments (inclusive of stagnation increment(s), if any) in the existing scale of pay”

“3rd Proviso to Rule 15:

Provided further the fixation thus made shall ensure that every employee will get at least one increment in the revised scale of pay for every three increments (inclusive of stagnation increment (s), if any), in the present scale of pay.”

“The above provisions envisage the grant of one increment in the revised scale for every three increments earned in the “present scale”. The intention of the Government is that for every 3 “actual” increments earned by the employee in the present scale, the benefit of one “actual” increment in the revised scale is to be granted.”

(14) On the basis of these instructions, the State of Haryana fixed the pay of Om Parkash under the Haryana Civil Services (Revised Pay) Rules, 1998 as follows :-

“Statement of fixation of pay under Haryana Civil Services (Revised Pay), Rules, 1998.

1. Name of the Government Servant : Om Parkash
2. Designation of the post in which : JBT
pay is to be fixed as on 1st January,
1996.
3. Status (Substantive/Officiating): Off.
4. Pre-revised scale (s) of pay 1400-40-1600-50
applicable for the Post 2300-EB-60-2600.
5. Existing emoluments as on
31st December, 95:
 - (a) Basic Pay (including stagnation: Rs. 1650
increment, if any).
 - (b) Special Pay (only such Special:
Pay to be considered for pay
fixation under Rule 7(1)(B).
 - (c) Dearness Allowance applicable Rs. 2442
at AICPI average 1510 (1960=100)

- (d) Interim Relief (1st instalment): 100
- (e) Interim Relief (2nd instalment): 165
- (f) Total existing emoluments 4357
(a) to (e)
6. Fitment weightage (40% of Basic Pay). 660
7. Total (Sl. Nos. 5(f) & 6): 5017
8. Applicable revised scale of pay 5450-8000
corresponding to the pre-revised
scale shown at Sl. No. 4 above:
9. (a) Stage in the revised scale 5450
of pay at which pay is to be fixed
in terms of sub-rule 1(A), 1(B),
1(C) or 1(D) and the first proviso
as the case may be, excluding the
benefit of bunching as envisaged
in the Second Proviso to Sub-Rule
1(A) of Rule 7:
- (b) Number of increments due on
account of bunching (Second
Proviso to Sub-Rule 1(A) of Rule 7).
- (c) Stage in the revised scale of pay 5450
is to be fixed including the benefit
on account of bunching:
- (d) Stage in the revised of pay 5450
at which pay is to be fixed so as to
ensure at least one incremen in the
revised scale for every three
increments in the pre-revised scale
(Third proviso of Sub-Rule 1(A)
of Rule 7):
10. Pay fixed in the applicable 5450
revised scale of Pay (Stage of
pay at Sl. No. 9(c) or 9(d) whichever
is higher:

11. Stepped up pay with reference -
to the revised pay of Junior, if
applicable and also the name, pay
and pay scale of the Junior also to
be indicated distinctly, and the
rule under which the stepping up
is permissible:
12. Revised pay with reference to -
the substantive pay in case where
pay fixed in the officiating post
is lower than the pay fixed in the
substantive post, if applicable.
13. Personal pay, if any. -
(Note 5 below Rule 7(1))
14. Revised emoluments after fixation :
 - (a) Pay in the revised scale: 5450
 - (b) Special pay, if admissible -
(Sub rule 1(C) of Rule 7)
 - (c) Personal pay, if admissible -
(Note 5 below Rule 7(1))
 - (d) Non-Practising allowance, if
applicable. -
15. Date of next increment and 1-4-96
pay after grant of increment:
Date of increment : 1-4-96
Pay after increment : 5600
16. Any other relevant information :

Pay verified Rs. 5450 in
the revised functional scale
Rs. 5450-8000 w.e.f.
1st January, 96 with date
of next increment 1st April,

Sd/-
Block Education Officer,
Jind, 24th May, 2006

1996 is Verified. Recovery of excess payment will be made w.e.f. 1st January, 1996 to uptodate by giving notice.”

(15) Since the Government has reduced the pay scale considering Rule 7 of Haryana Civil Services (Revised Pay) Rules, 1998, as such the relevant position of the same is also reproduced for ready reference :—

“7. Fixation of initial pay in the revised scale.—(1) The initial pay of a Government servant who elects or is deemed to have elected under sub-rule (3) of rule 6 to be governed by the revised scale on and from the 1st day of January, 1996, shall, unless in any case the Government by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended, and in respect of his pay in officiating post held by him, in the following manners namely :—

(A) in the case of all employees,-

- (i) an amount representing 40 percent of the basic pay in the existing scale shall be added to the existing emoluments' of the employee;
- (ii) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage equal to such computed amount in sub-rule (i) above and in case, there is no such stage in the revised scale equal to such computed amount in sub-rule (i) above, at the stage next above the amount thus computed in the revised scale.

Provided that-

- (a) if the minimum of the revised scale is more than the amount so computed in sub-rule (i) above, the pay shall be fixed at the minimum of the revised scale ;

- (b) if the amount so computed in sub-rule (i) above is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale:

Provided further that where in the fixation of pay, the pay of Government servants drawing pay at more than four consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first four consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, as under by the grant of increment (s) in the revised scale in the following manner, namely :-

- (I) for Government servants drawing pay from the 5th upto the 8th stage in the existing scale-by one increment.
- (II) for Government servants drawing pay from 9th upto the 12th stage in the existing scale, if there is bunching beyond the 8th stage- by two increments.
- (III) for Government servants drawing pay from the 13th upto the 16th stage in the existing scale, if there is bunching beyond the 12th stage-by three increments.

If by stepping up of the pay as above, the pay of a Government servant gets fixed at a stage in the revised scale which is higher than the stage in the revised scale at which the pay of a Government servant who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the later shall also be stepped up only to the extent by which it falls short of that of the former :

Provided further that the fixation thus made shall ensure that every employee will get atleast one increment in the revised scale of pay for every three increments (inclusive of stagnation increment(s) if any) in the existing scale of pay.

Explanation.-For the purpose of this clause “existing emoluments” shall include—

- (a) the basic pay in the existing scale;
 - (b) dearness allowance appropriate to the basic pay admissible at index average 1510 (1960=100) ; and
 - (c) the amounts of first and second instalment of interim relief admissible on the basic pay in the existing scale ;
- (B) in the case of employees who are in receipt of one or more categories of special pay/allowance in addition to pay in the existing scale which has been prescribed with a revised scale of pay without some or all such special pay/ allowance, pay shall be fixed in the revised scale in accordance with the provisions of clause (A) above except that in such cases “existing emoluments” shall include-
- (a) the basic pay in the existing scale;
 - (b) existing amount of all such special pay/allowance which have been discontinued.
 - (c) admissible dearness allowane at index average 1510 (1960=100) under the relevant orders; and
 - (d) the amounts of first and second instalments of interim relief admissible on the basic pay in the existing scale;

EXPLANATION.-In certain categories of Government servants two or more categories of special pay or allowancces may be merged and a unified special pay or allowance may be prescribed. In such cases, the categories of special pay/ allowances which may be merged and substituted by a unified special pay/allowances, will not be considered as a special pay/allowances which have been discontinued for the purposes of calculations under this sub-rule:

- (C) in the case of employees who are in receipt of special pay component with any other nomenclature in addition to pay

in the existing scales, such as personal pay for promoting small family norms, etc., and in whose case the same has been replaced in the revised scale with corresponding allowance/pay at the same rate or at a different rate, the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above. In such cases, the allowance at the new rate as recommended shall be drawn in addition to pay in the revised scale of pay ;

- (D) in the case of medical officers who are in receipt of Non-Practising Allowance (NPA), the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above except that in such cases the term ‘existing emoluments’ shall not include NPA and will comprise only the following :-
- (a) the basic pay in the existing scale;
 - (b) dearness allowance appropriate to the basic pay admissible at index average 1510 (1960=100); under the relevant orders; and
 - (c) the amounts of first and second instalment of interim relief admissible on the basic pay in the existing scale and non-practising allowance under the relevant orders and in such cases, non-practising allowance at the new rates shall be drawn in addition to the pay so fixed in the revised scale.

(16) Therefore, it is clear from the above reading, that Rule 7 of the Revised Pay Rules, 1998 and Rule 15 of ACP Rules, 1998 are analogous, but, in Rule 15, the effect of Assured Progression Scheme has been taken into account.

(17) Now, the question arises whether the action of the State Government in reducing the pay scale of petitioner Om Parkash and others sustains the test of legal scrutiny. Shri Hooda, taking the case of Om Parkash has submitted that since the pay of Om Parkash after adding the benefit of 40% comes to Rs. 5,017, as such Om Parkash

is entitled to minimum of scale of Rs. 5450-8000 i.e. Rs. 5,450 as on 1st January, 1996. The argument advanced by Mr. Hooda is that petitioner Om Parkash has earned only two increments after 1st January, 1994 and as such he is not entitled to the benefit of bunching as envisaged in rule 7 of the Revised Pay Rules, 1998 and Rule of 15 of ACP Rules, 1998.

(18) From the perusal of the record, it is revealed that the pay of the petitioners has been fixed at minimum of the revised scale. Taking up the case of Om Parkash petitioner, it is found that the scale of Om Parkash was Rs. 1400-2600 on 31st December, 1995 and the revised scale is Rs. 5450-8000. After giving benefit of 40% increase in the basic pay, dearness allowance, interim reliefs, the total pay in respect of Om Parkash petitioner comes to Rs. 5,017 as detailed in Annexure P-2. There is no dispute in respect of these calculations up to clause 8 in Annexure P-2. The dispute between the parties starts from giving benefit of one increment, in lieu of three increments for the service rendered by petitioner Om Parkash. Vide Annexure P-2, Om Parkash petitioner was granted basic pay of Rs. 5750, but, later on, vide Annexure P-6, his basic pay as on 1st January, 1996 was fixed at Rs. 5450 and the recovery of arrears of pay given to petitioner Om Parkash has been sought to be effected from him. The reason given by the respondents is that since Om Parkash has earned only two increments in the present scale of Rs. 1400-2600 which is less than three increments in the present scale, as such, his pay is to be fixed at the minimum, in view of instructions, Annexure P-6. This approach of the respondents is against the spirit of Revised Pay Rules, 1998 and ACP Rules, 1998. The last proviso to Rule 7 of the Revised Pay Rules and last proviso to Rule 15 of ACP Rules, mentioned above, are relevant. These proviso lay down that where in the fixation of pay, the pay of Government servants drawing pay at more than four consecutive stages in an existing scale get bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Government servants who are drawing pay beyond the first four consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs as mentioned in the above said rules by the grant of increments in the revised scale. In case the Government

servant is in the 5th upto the 8th stage in the present scale, in that case one increment is to be given. In case the Government servant is drawing pay from the 9th up to the 12th stage in the present scale, in that case two increments are to be given and the Government servant drawing pay from 13th to 16th stage, three increments are to be given in the revised scale. The stages in the present scale have to be taken into account while giving the benefit of increments in the revised scale. The basic pay of petitioner Om Parkash was Rs. 1650 as on 31st December, 1995 in the pay scale of Rs. 1400-2600. The increment up to Rs. 1600 from Rs. 1400 is Rs. 40 and after 1650, the increment in the present scale o Rs. 1400-2600 is Rs. 50. So, Om Parkash petitioner has reached the 6th stage of the scale in the pay scale of Rs. 1400-2600 and as such petiitoner Om Parkash is entitled to one increment in the revised pay scale and according to Rule 7 of Revised Pay Rules, 1998 and 15 of ACP Rules, 1998 as he was in 6th stage of the present scale.

(19) The argument of Mr. Hooda that since Om Parkash petitioner has earned only two increments in the scale of Rs. 1400-2600, as such he is not entitled to additional increment, in lieu of three increments, is without any substance. The above said Revised Pay Rules, 1998 and ACP Rules, 1998 deal with grant of increments in the “revised scale”, keeping in view the stages where the employee was getting the pay in the present scale. The previous pay revision has, admittedly, taken place from 1st January, 1986. In case the intention of these Rule was to grant increments according to the year of service, in that case, no employee could have reached more than 10th stage between 1st January, 1986 to 1st January, 1996. The scheme envisaged the grant of increment even up to 16th stage which clearly shows that the stages in the present scale have to be taken into account while fixing the pay of the employee and not the “actual” increments earned in the present scale.

(20) Another circumstance which militates against the case of the respondents is that all the petitioners who have been given ACP Scale have not been given any increment in the revised scale and their basic pay has been fixed on the minimum of the revised scale while implementing Annexur P-6. So, an employee who is of the same rank as that of petitioners, joins the service on 1st January, 1996 or any time

during the year 1996 would have got the basic pay of Rs. 5450. Petitioner Om Parkash has been allowed basic pay of Rs. 5450. No weightage has been given to Om Parkash in respect of his service from 1st January, 1979 to 1st January, 1996. It means that an employee who is appointed on 1st January, 1979 and 1st January, 1996 will get the same pay. This was never the intention of the framers of the Revised Pay Rules, 1998 and ACP Rules, 1998. The underlying idea is to get some benefit for the service rendered by him during the past. Similar is the case of other employees. From the perusal of the record, it is revealed that only one, two or three increments have been given to the petitioners, in lieu of the past service rendered by them. So, the calculation made by the respondents in Annexure P-2, cannot be said to be wrong, in any manner.

(21) So far as Annexure P-6, letter dated 22nd August, 2003 is concerned, the clause envisaging that the Government employee will get one increment for every three 'actual increments' earned by the employee in the present scale is against the spirit of Revised Pay Rules, 1998 and ACP Rules, 1998. If the word 'actual' is taken into account, in that case, the scheme will itself become redundant as no employee could earn more than ten increments in the present scale and granting increment up to 16th stage would render nugatory. Previous revision of pay scale was made in the year 1986. The original scheme explains the stages in the present scale and not the "actual" increment earned.

(22) Instructions cannot be issued against the statutory rules/schemes. The Hon'ble Apex Court in authority reported as **Punjab Water Supply & Sewerage Board versus Ranjodh Singh and others (1)**, has held that executive instructions cannot over-ride the statutory rules. So, the word incorporating 'actual' in Annexure P-6 being executive instructions against the statutory Revised Pay Rules, 1998 and ACP Rules, 1998 cannot be held to be valid and the same stand struck off.

(23) Learned counsel for the petitioners has further submitted that no recovery could be ordered from the petitioners as there is no

fraud or lapse on the part of the petitioners. The said prayer has been opposed by Mr. Hooda. However, that plea needs no adjudication as it has been held that no recovery could be made from the petitioners.

(24) In view of above discussion, Annexure P-6 and P-7 stand quashed and the order withdrawing the increments from the petitioners on the basis of Annexure P-6, also stands quashed. It is further ordered that no recovery, on the basis of letter dated 22nd August, 2003, Annexures P-6 and P-7, from the petitioners be made. If any amount, is recovered from any of the petitioners on account of re-fixation of pay, on the basis of Annexure P-6, the same be refunded to the respective petitioners within six months from today.

(25) Therefore, all the above mentioned Civil Writ Petitions stand disposed of in the terms stated above.

R.N.R.

Before Hemant Gupta & Mohinder Pal, JJ.

RAM SARUP,—Petitioner

versus

STATE OF HARYANA & OTHERS,—Respondents

C.W.P. 15278 of 2007

1st April, 2008

Constitutions of India, 1950—Art. 226—Instructions dated 31st January, 2006 issued by State of Haryana—Said instructions provide that physically handicapped employees who possess minimum 70% disability would retire at 60 years—Petitioner a handicapped person having 75% degree of disability—Petitioner held entitled to be retired at age of 60 years.

Held, that the case of the petitioner is squarely covered by the instructions dated 31st January, 2006 issued by the Government of Haryana and as adopted by the Nigam vide letter dated 2nd May, 2006 which clearly lay down that the normal retirement age of disabled