

the court unless the judgment-debtor is able to show that prejudice was caused to him by the draft sale-deed not being served upon him and opportunity thereby being denied to him to file his objections against it.

(6) Seen in this light, the impugned order of the trial court cannot indeed be sustained and is accordingly hereby set aside. This revision is thus accepted with costs. Counsel fee Rs. 300.

R.N.R.

Before : J. V. Gupta and M. S. Liberhan, JJ.

NAND LAL SHARMA AND OTHERS,—Petitioners.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 8534 of 1988.

19th December, 1989.

Constitution of India, 1950—Arts. 14, 16(2) and 226—Civil Services Rules, Volume I, Part I—Rls. 2.13, 5.1, 5.2, 5.3 and 5.5—Punjab State Reorganisation Act, 1982—S. 82—The Third Punjab Pay Commission, 1986—Cls. 14.18 to 14.20—Writ Jurisdiction—Mandamus—House Rent Allowance—Rural Area Allowance—Government withdrawing H.R.A. on recommendations of the Pay Commission—Place of posting made basis for admissibility of allowance—Condition of residence within 8 Kms. of the city entitling employees to H.R.A. waived off—Rural area allowance—withdrawal of H.R.A. and consequent grant of rural area allowance—Such allowance paid under executive instructions is mere concession—Government has power to withdraw unilaterally—Change in policy—Withdrawal of concession does not amount to altering conditions of service—Payment of allowance cannot be claimed in writ jurisdiction—Writ under Art. 226 not maintainable—Withdrawal does not result in discrimination.

Held, the house rent allowance was being paid under executive instructions and not under any statute as such and, therefore, any change made therein by the State Government could not be challenged in writ jurisdiction as there was no vested right in the petitioners which could be said to have been violated by the impugned orders.

(Para 15)

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

Held, that rule 2.13 provides what compensatory allowance means. It does not contemplate that House Rent Allowance is compensatory allowance.

(Para 82)

Held, that the policy is based on the recommendations of the Third Punjab Pay Commission giving benefit to all the employees either by way of House Rent Allowance or Rural Area Allowance. While laying down certain conditions for the grant of the same, there may be some cases of hardship but that does not violate the orders withdrawing House Rent Allowance under certain conditions and the grant of Rural Area Allowance as such as to hold that they are violative of Articles 14 and 16 of the Constitution.

(Para 84)

Held, however, in the case of payment of rural area allowance the requirement was not only that the employee should be posted in the rural area but he should also live in the rural area to claim the said allowance. This discrimination, if any, has now been taken away by the State Government,—*vide* order dated 30th November, 1989 produced in this Court after the arguments were concluded. According to the said order, the Government has decided that “the condition of having place of residence in rural area for the grant of rural area allowance should be treated to have been withdrawn”. It is, therefore, evident that the employees posted in the urban area will be getting House Rent Allowance whereas the employees posted in the rural area will be getting rural area allowance irrespective of the place of their residence.

(Para 17)

Held, that payment of House Rent Allowance or rural area allowance being in the nature of concession could not be claimed in the writ jurisdiction. Hence, it has to be held that the petitioners have no vested right in claiming House Rent Allowance and it is a mere concession which is being paid under the executive instructions from time to time, no petition for a writ of *mandamus* directing that the petitioners be paid House Rent Allowance is maintainable.

(Para 87)

Petition under Article 226 of the Constitution of India praying that a writ of certiorari, mandamus or any other suitable writ, direction or order be issued directing the respondents :

- (i) to produce the complete records of the case ;
- (ii) the petitioners be exempted from filing the certified copies of the Annexures ;

- (iii) orders at Annexure p-3 and p-4 be quashed ;
- (iv) a direction be issued that the petitioners be granted House Rent Allowance as admissible prior to the passing of orders dated 30th August, 1988 ;
- (v) that the petitioners be paid Rural Area Allowance in addition to the House Rent Allowance in the form of incentive for working in Rural Areas ;
- (vi) pending disposal of the writ petition, the petitioners be paid the House Rent Allowance as admissible prior to the orders dated 30th August, 1988 ;
- (vii) this Hon'ble Court may also pass any order which it may deem just and fit in the circumstances of the present case ;
- (viii) the petitioners be exempted from serving the notice of the writ petition in advance to the respondents ;
- (ix) Cost of the petition be also awarded in favour of the petitioners ;
- (x) this Hon'ble Court may also grant all consequential reliefs in the nature of arrears of salary etc.

Application Under Section 151 C.P.C. praying that interim order dated 26th September, 1988 passed by this Hon'ble Court may be vacated in the interest of Justice.

C.M. 12962/88.

Application under Section 151 of the Code of Civil Procedure praying that the operation of letter dated 30th August, 1988 Annexure P/4, be stayed and the respondent authorities be directed to continue paying to the petitioners the House Rent allowance as was admissible to them prior to the passing of the letter.

J. L. Gupta, Sr. Advocate with Mr. T. S. Dhindsa, Advocate, for the petitioners.

G. K. Chatrath, Advocate, Mr. R. C. Chatrath, Advocate, Mr. H. S. Bedi, A.G. Pb. with Mr. S. S. Shergil, Advocate, for the Respondents.

ORDER

J. V. Gupta, J.

(1) This judgment will dispose of the present writ petition No. 8534 of 1988 and a bunch of connected writ petitions No. 8535,

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

8536, 8537, 8453, 8514, 8527, 8528, 8546, 8560, 8619, 8677, 8713, 8879, 9975, 10519, 10520, 11801, 11586, 10697 of 1988, 953, 3117, 8137, 8130, 7998, 8284, 8346, 8446, 8024, 8310, 7714, 7771, 8193, 8035, 8186, 8260, 8425, 9384, 9385, 9423, 8286, 8222, 13007, 13027, 13053, 13054, 13067, 13218, 13301, 13314, 13328, 13352, 13431 and 6266 of 1989, in which the challenge has been made to the order in Annexure P/3 dated 30th August, 1988 granting rural area allowance and the order in Annexure P/4 dated 30th August, 1988 granting of House Rent Allowance by the Government of Punjab in pursuance of the recommendations of Third Punjab Pay Commission.

(2) The Third Pay Commission was appointed,—*vide* Notification dated 3rd July, 1986 under the Chairmanship of Mr. Justice C. G. Suri, a retired Judge of this Court. One of the terms of reference was to examine the variety of allowances and benefits which are presently available to the employees in addition to pay and to suggest rationalisation and simplification thereof with a view to promoting efficiency in administration. The Commission examined the suggestions received from various Associations/Unions of the employees as observed in Clause 14.8. thereof which reads as under:—

“We have examined the suggestions received from various associations/Unions of the employees with regard to grant of House Rent Allowance. Certain Associations have suggested that House Rent Allowance should be paid as percentage of the revised basic pay. The rates suggested range between 10 per cent to 30 per cent. Certain others have suggested that the House Rent Allowance should be granted to the State Government employees on the Central Pattern. Several other have, however, generally suggested for a suitable enhancement of the House Rent Allowance in view of the increased rents in various cities and towns. There is no denying the fact that the rents for residential accommodation in various cities/towns have risen very high in the last 7-8 years. There is an increasing pressure of population on the urban accommodation because of the rapid expansion of industries and the consequent migration of surplus agricultural labour force from the villages to the towns. We find an adequate justification for a suitable enhancement of the House Rent Allowance for all the cities/towns. It is not possible for the Government to provide Government accommodation to all the employees

in the State because of the constraint of resources and heavy expenditure involved in such a venture. It is an accepted reality that a large percentage of the employees shall have to arrange for suitable accommodation on rent for themselves and the Government will have to compensate them by granting them House Rent Allowance at the rates which should be adequate enough to enable them to hire suitable accommodation by contributing their own share from their emoluments”.

The matter was further examined in view of the pattern of House Rent Allowance in some other States as well. Ultimately, the Commission recommended to the State Government as under:—

“14.18 At present, entitlement of House Rent Allowance of an employee is determined on the basis of his place of posting, But there is a stipulation that he is required to give a certificate initially (and probably at the time of change of slab) regarding the rent he is paying and the place where the residence is located. Theoretically, therefore, an employee who is not able to give a certificate that he stays at the place of posting or within the specified distance—normally 8 Kms. would not be entitled to payment of House Rent Allowance. It is however well known that the production of this certificate is simply a ritual and a large number of employees are actually staying at places other than those as shown in the certificates. It is also not possible to control this aspect on a regular basis because submission of a regular receipt etc. has been (albeit for good reasons) done away with. We feel that in the context of fast means of communication available today, the permissible distance (of 8 Kms.) from the place of posting is outdated, and is without influencing the choice of employees, regarding place of residence, instrumental in the employees’ submitting and the Government receiving (mostly) bogus certificates. We recommend that the employees’ should be permitted House Rent Allowance on the basis of the place of posting and the certificate should be treated only as information regarding the employee’s residential address. It is for Government to take suitable administrative measures to ensure that the employees are available when required for official work.

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

14.19 The existing facility of grant of House Rent Allowance admissible at places falling within 8 Kms of 1st and 2nd class cities at par with the respective city rates does not appear to be logical or rational. It is administratively inappropriate to provide this concession because the Government should as far as possible encourage people to stay in villages if they are posted there, but now it provides positive incentive to them to keep on staying in urban areas even if they may be posted in villages. We are, therefore, of the view that this concession to places situated within 8 Kms. should be done away with and employees in this category should be paid House Rent Allowance/rural area allowance as the case may be at the rates as are admissible for their place of posting.

14.20 It has been urged before us by most of the associations/ unions of employees that both husband and wife, who are Government employees and posted at the same station, should be made eligible for the grant of House Rent Allowance. Example of State of Haryana has been cited in this regard. The existing instructions of the State Government provide that where both husband and wife are in Government service the House Rent Allowance may be allowed to both spouses where they have to reside separately due to long distance between the places of posting or where the spouses are living separately because of estrangement between them even though they may not have actually been separated legally. We are not in favour of making any modification in the existing instructions on the subject as where both husband and wife are to live in the same premises, there is absolutely no justification in treating them as separate units for the purpose of grant of House Rent Allowance."

(3) Prior to the orders Annexures P/3 and P/4 dated 30th August, 1988, no rural area allowance as such was being paid to the employees but only House Rent Allowance was being paid,—vide Annexure P/1 dated 11th September, 1965 and later on,—vide Annexure P/2 dated 15th March, 1973. Thereunder eligibility for House Rent Allowance was to be determined with reference to the place of duty. Any Government employee whose place of duty falls within the qualifying limits of any of the cities eligible for House

Rent Allowance or within five miles (8 Kms.) from the qualifying limits of such cities was eligible for House Rent Allowance for that city irrespective of whether his place of residence was within such limits or outside.

(4) Now the change made,—*vide* Annexure P/3 is that the House Rent Allowance admissible on account of the place of duty falling within 8 Kms. of the outer limit of the eligible cities has been withdrawn. On the other hand, a rural area allowance has been granted to the employees posted in rural areas subject to the condition that the place of residence of the employee is at the place of his posting or at any other place in the rural area. It has been made further clear that the cities have been classified into 'A' 'B' 'C' and 'D' classes on the basis of population and revised rate of House Rent Allowance has been laid down depending upon pay scales. Further if the amount of House Rent Allowance being withdrawn by an employee posted in the urban area is higher than in the revised pay scale then the previous rate of House Rent Allowance admissible has been protected.

(5) The Grievance of the petitioners is three folds ; (i) On account of the withdrawal of House Rent Allowance and grant of Rural Area Allowance,—*vide* order Annexure P/3 and P/4 each one of the petitioners will suffer a loss of Rs. 50 to Rs. 400 in a State where rents for residential accommodation in rural as well as urban areas have not only increased but rocketed. Further the petitioners who are posted and working in rural areas and as such are performing more onerous duties than their colleagues posted in the cities have been discriminated against in the matter of House Rent Allowance; (ii) Even the Rural Area Allowance that has been made admissible to the petitioners is subject to the condition that they reside at the place of their posting or at any other rural area permitted by the concerned authority. As a result those petitioners who were posted to places within 8 Kms' radius of the eligible cities and are residing in the city will now not only be deprived of the House Rent Allowance but also the Rural Area Allowance till such time that they shift their place of residence to their place of posting; and (iii) Further the petitioners who will now have to shift their residence to rural area to claim Rural Area Allowance have been left at the discretion of the Government to decide to what allowance would be admissible. As such any exercise of such unbridled power would be arbitrary and against the interests of the petitioners.

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

(6) In the return filed on behalf of the respondent—State of Punjab, certain preliminary objections have been raised. On merits, the stand taken is that the grant of House Rent Allowance being not statutory and in the nature of concession cannot only be varied or revised but it can even be withdrawn by the Government. It has also been pleaded that if is settled proposition of law that nobody could urge the Government that before deciding to withdraw the the Government that before deciding to withdraw the concession, it should have heard any Government employee and the position is not different whether a benefit is created by statutory provisions or executive instructions and that the given statute or the executive instructions could be amended or withdrawn in a manner as to do away with the right created by earlier provisions of the statute or instructions. However, it has been submitted that the concession of the grant of House Rent Allowance in issue is not the creation of any statutory provision. Moreover, the concession of House Rent Allowance in question has not been taken away in individual cases but has been taken away by way of police decision of the State Government as contained in Circular Annexure P/4 applicable to all the employees. It has been further submitted that the State Government after considering the recommendations of Third Punjab Pay Commission have for the first time sanctioned Rural Area Allowance to its employees by Circular Annexure P/3 and as such the officials posted in the rural areas were not entitled to the additional benefit of House Rent Allowance. Moreover, now the Government has allowed Rural Area Allowance to the employees posted in villages and House Rent Allowance in cities without the production of receipt of rent. The Rural Area Allowance is paid on the basis of place of duty and an employee should have residence in any village. The second condition has been prescribed to encourage the employees to live in villages and condition of residence within 8 Kms has been waived off. An employee cannot leave the station of his posting without permission of Head of the Department as provided under the rules of C.S.R. Vol. I, Part-I before the issue of these instructions. By these instructions now no one can play a fraud with the Government. This is really a harm to dishonest employees.

(7) It has been further averred that an employee has to reside at the place of his duty, as stated above. The persons posted in rural areas have to keep their residences there and persons posted in cities have to keep their residences in cities. The employees posted

in rural areas are now allowed Rural Area Allowance just to attract more employees to live in villages and not to initiate their request for transfer to cities. It is accordingly an allowance as generally they do not pay any rent in villages. In cities House Rent Allowance has been given so that those living there may hire accommodation. There are thus two classes and both have been given benefit in a most rational way.

(8) Mr. J. L. Gupta, Senior Advocate, the learned counsel for the petitioners submitted that there is rational classification on the basis of place of residence nor there could be any classification made on the basis of place of posting. According to the learned counsel, the said discrimination is arbitrary. He further urged that House Rent Allowance is not a mere concession as the stand has been taken in the return on behalf of the State Government but is a statutory one as contemplated under rule 5.5 of the C.S.R. Vol. I Part-I read with rule 5.1 and 5.3 and the note under rule 5.2 of the said rules. Rule 2.13 defines compensatory allowance which means an allowance granted to meet personal expenditure necessitated by the special circumstances in which duty is performed. It includes travelling allowance, dearness allowance but does not include a sumptuary allowance nor the grant of a free passage by sea to or from any place outside India. In any case, even if it assumed for the sake of argument that it is a concession, even then it could not be arbitrary. In support of this contention, he cited *Ramana Dayaram Shetty v. The International Airport Authority of India and others* (1). He also submitted with reference to Civil Writ Petition No. 8359 of 1976 *Jit Singh etc. v. State of Punjab etc.* that employees living in villages but posted in the cities are getting House Rent Allowance which was not only arbitrary but discriminatory as well. According to the learned counsel, Article 16(2) of the Constitution of India provides that no discrimination could be made on the basis of residence and hence it is violative of Article 16 of the constitution. Argument was also raised that it is in violation of Section 82 of the Punjab State Re-Organisation Act, 1956 as some of the petitioners were getting House Rent Allowance prior to November, 1956. But now,—vide the impugned order Annexure P/4, the House Rent Allowance is being withdrawn and as such the condition of service applicable to the petitioners prior to November, 1956 is being altered to their detriment.

(9) In Civil Writ Petition No. 8577 of 1988 Mr. G. K. Chatrath, Advocate, the learned counsel for the petitioners further submitted

(1) A.I.R. 1979 S.C. 1628.

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

that no grounds have been disclosed for withdrawing the earlier order Annexure P-1 and P-2 even in the report of the Third Pay Commission and the non disclosure of reasons itself violated the impugned orders. Moreover, according to the learned counsel, the reasons could not be now disclosed in the return. In this behalf, reference was placed on *Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others* (2), It was as also argued that concession if continued for a long period (in the present case since 1965), the same could not be withdrawn subsequently as it becomes a condition of service. To support this contention, reference was made to *Management of Chandramalai Estate Ernakulam v. Its workmen and another* (3), and *Meleod and Co. Ltd v. The Workmen* (4).

(10) On the other hand, the learned Advocate General submitted that reasons have been given in the report of the Third Punjab Pay Commission for withdrawing the earlier orders as well as in the Government file when the recommendations were accepted. It is purely an administrative matter and, therefore, this Court will not go into the same in the writ jurisdiction. He further submitted that House Rent Allowance is not compensatory allowance as contained in rule 2.13 C.S.R. Vol. I Part-I. The rules only provided that how much is to be paid by way of compensatory allowance. Moreover, no opportunity of hearing was necessary to be given while withdrawing the said concession. In support of this contention he cited *Gurmeet Singh Gill Agriculture Inspector and others v. The Chief Agricultural Officer Ropar and others* (5), and *Jit Singh etc. v. State of Punjab* (6).

(11) He next contended that the impugned orders affect only to those employees who were working within 8 Kms. only. Now they will be getting Rural Area Allowance. Moreover, the amount of House Rent Allowance has now been doubled. According to the learned Advocate General, the residence provided in Article 16(2) of

(2) A.I.R. 1978 S.C. 851.

(3) A.I.R. 1960 S.C. 902.

(4) A.I.R. 1964 S.C. 1449.

(5) 1987(3) S.L.R. 488.

(6) CWP No. 8359 of 1976 decided on 19th May, 1977.

the Constitution has a different connotation and there was no discrimination on that basis. The State Government is competent to declare any area as backward area and give concession to the people living therein. Rural Area and urban area have well defined distinctions. The main thrust of the argument is that since it is a mere concession, it could even be withdrawn at any time. The question of discrimination does not arise. Only limited people are effected by the impugned orders who were earlier getting House Rent Allowance but will now be getting Rural Area allowance.

(12) The policy is based to encourage the employees to live in villages and, therefore, the condition of residence within 8 Kms. to get House Rent Allowance has been waived off.

(13) We have heard the learned counsel for the parties at a great length and have gone through the case law cited at the Bar.

(14) This Court in *Gurmeet Singh Gill's case supra* has held that the payment of city compensatory allowance by the State Government was by way of concession. It was open to the Government to withdraw the said concession. Nobody could urge that the Government before deciding to withdraw the concession should have heard any such government employee. The position is not different when a right is given by the statutory provisions or by executive instructions. The same could be amended or withdrawn in a manner as to do away with the right created by the earlier statutory provisions or the executive instructions. Similarly in *The State of Punjab and others v. Harnek Singh and others* (7), reliance has been placed on *Jit Singh's case supra* in which it was held as under:—

“No support, therefore, can be sought from these decisions for the proposition that the concerned authorities having once allowed the payment of the house rent allowance on the basis of annexure P.1 were not competent to stop its payment in view of the letter circular (annexure P.3) whereby the conditions requisite for the payment of the house rent allowance had been clarified and in a way modified or that the same could not be done without affording an opportunity of being heard to the petitioners. The grant of the house rent allowance was only a concession given by the State to its employees upon certain conditions and that

(7) LPA No. 106 of 1977.

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

concession having never been incorporated in any statutory rule could be withdrawn or the conditions for its payment modified at any time unilaterally by the State. The concerned authorities in stopping the payment of the house rent allowance to the petitioners only gave effect to the later circular (annexure P.3) and this, in our view, did not involve the reversal of any prior decision conferring any benefit on the petitioners which could give rise to a right to the petitioners of being heard prior to the stopping of payment of the house rent allowance."

(15) In view of these three Division Bench judgments we do not find any force in the contention raised on behalf of the petitioners that House Rent Allowance was statutory and not a mere concession. The House Rent Allowance was being paid under executive instructions and not under any statute as such and, therefore, any change made therein by the State Government could not be challenged in writ jurisdiction as there was no vested right in the petitioners which could be said to have been violated by the impugned orders Annexures P-3 and P-4.

(16) Rule 2.13, referred to above, provided what compensatory allowance means. It does not contemplate that House Rent Allowance is compensatory allowance. Rule 5.5, provides the mode of withdrawing the House Rent Allowance if being paid to the employees. The clarification given therein further provides that House Rent Allowance being a compensatory allowance may be allowed to be withdrawn by a Government employee under suspension as well like other compensatory allowances, etc. From the perusal of the said rule, it could not be successfully argued on behalf of the petitioners that House Rent Allowance was statutory one and, therefore, the petitioners were entitled thereto, as a matter of right, it could be enforced by a writ of *mandamus*. Reference was made to the observation of the Apex Court in *Ramana Dayaram Shetty's case* supra that "it must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including awards of jobs, contracts quotas, licences etc. must be confined and

structured by rational, relevant and non-discriminatory standard or norm and if the government departs from such standard or norm in any particular case or cases, the action of the Government could be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.”

(17) That was a case where tenders were called for running restaurant and snack bars at Air Port and certain qualifications were laid down. It was held by the Supreme Court that the International Air Port Authority cannot accept the tender of persons who do not fulfil the requisite qualifications. It was in this context that the discretion of the Government has been held to be not unlimited. In that the Government cannot give or withhold largess in its arbitrary discretion or at its sweet will. That being so, it has no applicability to the facts of the present case where the House Rent Allowance has been allowed to its employees under certain conditions. There is no arbitrariness therein. The policy is based on the recommendations of the Third Punjab Pay Commission giving benefit to all the employees either by way of House Rent Allowance or Rural Area Allowance. While laying down certain conditions for the grant of the same, there may be some cases of hardship but that does not violate the orders Annexures P-3 and P-4 as such as to hold that they are violate of Articles 14 and 16 of the Constitution. In this respect, the observations of the Supreme Court in *K. V. Rajalakshmia Setty and another v. State of Mysore and another* (8) are very relevant. It reads as under:—

“No doubt some concession had been shown to the first batch of 41 persons and the batches of persons who had come in after the batch of 63 persons also received some concessions but after all these were concessions and not something which they could claim as of right. The State of Mysore might have shown some indulgence to this batch of 63 persons but we cannot issue a writ of *mandamus* commanding it to do so. There was no service rule which the State had transgressed nor has the State evolved any principle to be followed in respect of persons who were promoted to the rank of Assistant Engineers from Surveyors.”

Nand Lal Sharma and others v. State of Punjab and others
(J. V. Gupta, J.)

However, in the case of payment of rural area allowance the requirement was not only that the employee should be posted in the rural area but he should also live in the Rural area to claim the said allowance. This discrimination, if any, has now been taken away by the State Government,—*vide* order, dated 30th November, 1989 produced in this Court after the arguments were concluded. According to the said order, the Government has decided that “the Condition of having place of residence in rural area for the grant of rural area allowance should be treated to have been withdrawn.” It is, therefore, evident that the employees posted in the urban area will be getting House Rent Allowance whereas the employees posted in the rural area will be getting rural area allowance irrespective of the place of their residence.

(18) Faced with this situation, Mr. J. L. Gupta, Senior Advocate, the learned counsel for the petitioners submitted that if that is so then the recommendations of the Third Punjab Pay Commission and the stand taken by the State Government in the return that the impugned orders Annexures P-3 and P-4 are being issued to encourage the employees to live in the rural area was frustrated and, therefore, now the allowances are being paid on account of place of posting which according to him was not warranted. However, there is no merit in this contention as observed in the earlier part of this judgment. Payment of House Rent Allowance or rural area allowance being in the nature of concession could not be claimed in the writ jurisdiction. Moreover, this was not the only reason for passing the impugned orders. The reasons have been given in detail in the report of the Third Punjab Pay Commission as well as in the return filed by the State Government.

(19) As regards the further contention raised on behalf of Mr. Chatrath, the learned counsel for the petitioners in C.W.P. No. 8677 of 1988 that no reasons have been disclosed to withdraw the House Rent Allowance has no merit. The reasons have been disclosed on the administrative file as well as in the return. Moreover, Annexures P-3 and P-4 are based on the recommendations of the Third Pay Commission where reasons have been given as reproduced in the earlier part of the judgment.

(20) The second contention raised by the learned counsel that concession, if continued could not be withdrawn as according to him it becomes a condition of service, has no force. The cases

relied upon in this behalf are *Management of Chandramalai Estate Erndkulam v. Its workmen and another and McLeod and Co. Ltd. v. The Workmen* (supra), where blanket allowance and tiffin allowance were allowed respectively but these are the cases under the Industrial Disputes Act and, therefore, have no applicability to the facts of the present case and are thus clearly distinguishable.

(21) The result of the above discussion is that since the petitioners have no vested right in claiming House Rent Allowance and it is a mere concession which is being paid under the executive instructions from time to time, no petition for a writ of *mandamus* directing that the petitioners be paid House Rent Allowance is maintainable.

(22) Consequently all the writ petitions challenging the orders Annexures P-3 and P-4, dated 30th August, 1988 are hereby dismissed with no order as to costs.

R.N.R.

Before : G. C. Mital and Amarjeet Chaudhary, JJ.

SHIV KUMAR BAGRA AND ANOTHER,—Petitioners

versus

THE PANCHKULA URBAN CO-OPERATIVE BANK LIMITED,
PANCHKULA, DISTRICT AMBALA AND OTHERS,—Respondents.

Civil Writ Petition No. 355 of 1990.

27th March, 1990.

Haryana Co-operative Societies Act, 1984—Ss. 34 and 94—Registrar placing the Board of Directors under suspension in exercise of powers u/s 34 pending proceedings into charges of mismanagement—Members of the Board removed on proof of allegations—S. 94 making special provisions for insured cooperative banks and removal of the committee only if so required by the Reserve Bank of India—Removal of committee u/s 34 is without jurisdiction—In case of