

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16828-2021 (O&M)

SHRUTI JAIN & ORS.

... PETITIONERS

VS.

STATE OF HARYANA & ORS.

... RESPONDENTS

1.	Judgment reserved on	03.12.2025
2.	Judgment pronounced on	20.02.2026
3.	Judgment uploaded on	21.02.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Shruti Jain Goyal, Advocate and
Ms. Komal Klana, Advocate for the petitioners

Mr. Amit Sahni, Addl. AG Haryana

Sandeep Moudgil, J.

Relief Sought

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari quashing the impugned letter dated 09.01.2018 (Annexure P7) issued by the Finance Department, Haryana to the extent of providing pay scale of Rs.128900/- for Deputy Advocate Generals and Rs.88400/- for Assistant Advocate Generals instead of Rs.140900/- and Rs.93800/-, respectively and for quashing the letter dated 06.02.2018 (Annexure P8), notice dated 23.12.2020 (Annexure P6) and letter dated 23.06.2021 (Annexure P11) issued by respondent No.2 ordering recovery of excess salary paid to them. A further direction is sought to direct the respondents to let the petitioners continue in the pay scale as per order dated 18.08.2018 (Annexure P5) and to grant fixed medical allowance, medical

reimbursement, leave, earned leave and other benefits including increments w.e.f. January, 2019 instead of July, 2019, as has been granted to their other counterparts appointed prior to them.

Factual matrix

(2). The State of Haryana enacted the Haryana Law Officers (Engagement) Act, 2016 (the "2016 Act") to regulate the transparent and objective engagement of Law Officers, including Deputy Advocate Generals (DAGs) and Assistant Advocate Generals (AAGs), in the Office of the Advocate General - respondent No.4. Section 9 of the 2016 Act provides that such engagements shall be purely on contract basis, for terms and entitlements including pay, benefits, privileges, and protocol, as determined by the State Government and specified in the terms and conditions of engagement. Pursuant to Section 15 of the Act, the State Government framed the Haryana Law Officers (Engagement) Rules, 2016, empowering a Selection Committee constituted under Section 5 of the 2016 Act to recommend appointments, with the State Government as the final appointing authority. Besides, the Advocate General was also empowered to engage up to five special advocates as such with prior approval.

(3). All the petitioners responded to Advertisement No. 2/10/2015-5JJ-I dated 29.12.2017 (Annexure P1) issued by respondent No.2 and vide engagement letters dated 30.06.2018 (Annexures P2 & P3), petitioners No. 1 to 8 were appointed as DAGs whereas petitioners No. 9 to 17 were engaged as AAGs with respondent No.4 initially for one year but extendable on a year-to-year basis based on performance. Some petitioners were re-appointed, having previously served or been concurrently engaged in similar roles. These

appointments aligned with Section 9 of the 2016 Act, emphasizing fixed terms without regular service status, and included duties such as providing legal advice, defending the State in courts/tribunals, and handling references under Article 143 of the Constitution.

Terms of Engagement

(4). The engagement letters (Annexures P2 & P3) prescribed the following under the 6th Central Pay Commission (CPC), plus Non-Practicing Allowance (NPA) and usual allowances as sanctioned by the Haryana Government:

- For **DAGs** - Revised pay scale of Rs. 37,400-67,000 + Rs.10,000 Grade Pay (GP) + Rs. 2,500 NPA; initial entry-level pay of Rs. 43,390. Entitlements included leave for contractual employees and fixed medical allowance (no reimbursement).
- For **AAGs** - Revised pay scale of Rs. 15,600-39,100 + Rs.8,000 GP + Rs. 2,000 NPA; initial entry-level pay of Rs. 28,000. Similar leave and medical terms applied.

(5). Subsequently, vide office order dated 18.08.2018 (Annexure P5), as per the 7th CPC Pay Matrix under Haryana Revised Pay Rules, 2016, the pay of DAGs was revised at Level 19 (Rs. 1,40,900 basic pay) and that of AAGs at Level 13 (Rs. 93,800 basic pay). This fixation reflected the entry-level pay plus increments earned post-joining, consistent with the engagement terms' provisions for government-sanctioned allowances and revisions.

(6). During audit of the Advocate General's accounts for 01.04.2018 to 31.03.2021 by the Principal Accountant General (A&E), Haryana, objections

arose nearly after a lapse of 2.5 years post-appointment, alleging "inadvertent" excess fixation.

(7). The show-cause notices dated 23.12.2020 (Annexure P6), demanded re-fixation of their pay from the date of joining besides recovery of alleged excess payments and explanation for non-compliance. In response thereto, the petitioner submitted their detailed replies contesting the notices' applicability to their statutorily framed contractual terms under the 2016 Act. Undeterred, respondent No.1 issued memo dated 23.06.2021 (Annexure P11), directing respondent No.4 to effect recoveries from each of the petitioners, retroactively altering the finalized contractual pay terms under Section 9 of the 2016 Act without due process.

Backdrop of the proceedings

(8). Notice of motion was issued by this court on 31.08.2021 and pursuant thereto, the respondent No.1 to 3 have filed their written statement in terms whereof, all the reliefs as mentioned in the headnote have already been accepted except that the petitioners have been held not entitled to claim medical reimbursement, LTC facility and pensionary benefits or earned leave. The relevant portion of the averments read as under:-

<i>Prayer of the petitioners</i>	<i>Action taken by the AD</i>
<i>For partly quashing of FD letter U.O. No. 1/21/2009-2PR dated 09.01.2018 to the extent of providing pay scale of Rs 128900/- for DAG and Rs. 88400 for AAG instead of Rs. 140900/-and Rs. 93800/- and to quash the notice dated 23.12.2020 and letter dated 23.06.2021 recover the excess salary paid to to the</i>	<i>In this regard a decision has already been taken at AD level and conveyed to AG, Haryana vide Govt. Memo No. 2/18/2020-5JJ(1) dated 18.01.2022 (Annexure R-1) in which Government has conveyed to Advocate General, Haryana to rectify appointment letter of DAGS 19 and FPL-13 alongwith entry level and</i>

<i>AAG/DAG in pursuance to the show cause notice dated 23.12.2020.</i>	<i>AAGs, mentioning therein FPL-salary of Rs. 140900 (FPL-19) and Rs. 93800 (FPL-13) respectively.</i>
<i>For granting 1st increment w.e.f. 1st January, 2019 instead of 1st July, 2019</i>	<i>In this regard, it is submitted that after considering the grievance of the petitioners vide order dated 02.07.2022 (Annexure R-2) the date of annual increment of the petitioners has already been fixed as 1st January, 2019 instead of 1 July, 2019 and conveyed accordingly to the office of AG, Haryana.</i>
<i>For granting fixed medical allowance.</i>	<i>The answering respondent, after receiving concurrence from Finance Department has already conveyed to respondent No.4 i.e. A.G Haryana vide letter dated 16.08.2022 (Annexure R-3) that they may contact National Informatics Centre (NIC) for updating the online system so as to enable the grant of Rs.1000/-per month (fixed medical allowance) to the petitioners.</i>

While the respondents' written statement concedes to the majority of the reliefs prayed for by the petitioners, the claims regarding medical reimbursement, LTC and earned leave continue to be resisted. Consequently, the dispute in the present petition is now narrowed to these specifically denied entitlements.

Contentions

On behalf of respondent-State

(9). Learned State counsel submits that the terms and conditions of the engagement letters would show that their engagement as DAGs/AAGs has always been contractual in nature and thus liable to be terminated at any time

and no right accrued to claim the benefits at par with employees in regular service. He further submits that the engagement of the petitioners is not only governed by the conditions/engagement letter dated 30.08.2018 to which they have given their free consent while accepting the engagement but it also governed by the provisions of Haryana Law Officers (Engagement) Act, 2016 which were not in existence at the time of filing of the present writ petition.

(10). It is argued that that the “engagement” of the petitioner cannot at all be termed as an “appointment” equivalent to Government service or bring the petitioners within the ambit of the term ‘Government employee’ and as such, the rules applicable in case of a ‘government employee’ are not applicable to the petitioners and terms and conditions applicable to those the contractual employees would be applicable to the petitioners.

(11). In so far as claim for LTC is concerned, learned State counsel submits that as per instructions dated 21.04.2010 issued by the Government of Haryana, a Govt. employee appointed on contract basis, after one year, whose contract is more than four years has been held entitled for LTC facility whereas such facility is not admissible to be extended to the provisionally contractual employees viz. the petitioners, whose contract period is extended year to year or without any period mentioned in the contract and thus the petitioners cannot be considered for LTC facility. He then submits that the petitioners’ claim for earned leave is not sustainable even in view of HCS (Leave) Rules, 2016 as they are serving for a limited duration as provided under Rule 2. Furthermore, no such provision for providing earned leave and other allowances has been provided in terms and conditions of the engagement of the petitioners as required under Rule 3 of 2016 Rules.

(12). It is urged that the petitioners cannot claim parity in matter of grant of LTC allowance to them at par with Data Entry Operators appointed on contractual basis as the nature of services and duties amongst them are different and that apart, rule making is a policy matter and government can make different set of rules keeping in view specific working conditions.

On behalf of the petitioner

(13). Learned counsel for the petitioner has exhorted that the impugned exclusion of LTC, earned leave and medical reimbursement in the case of post-2016 Law Officers is wholly arbitrary, ultra vires the governing service rules and contrary to the very terms on which they have been engaged.

(14). It is argued that the appointment of the petitioners are against sanctioned posts, on a regular revised pay scale under the HCS (RP) Rules, 2016, with “usual allowances as sanctioned by the Haryana Government from time to time”, and they are treated as whole-time Government servants, barred from private practice and paid from the Consolidated Fund under the “Salary” head, with tax deducted as in case of regular employees rather than as professional fees. Therefore, in law and in practice, their status is indistinguishable from other Government employees and as such, mere nomenclature such as “engagement” cannot be used to deny them LTC, earned leave and all other kinds of leave and medical benefits which are part of the normal incidents of Government service.

(15). It is further submitted that the petitioners have in fact been granted revised pay scales, DA revisions, TA/DA and even enhanced fixed medical allowance in line with Government employees, thereby reinforcing their claim that the remaining service benefits cannot be selectively withheld.

(16). It is contended that under Rule 8 of the Haryana Civil Services (Leave) Rules, 2016, Appendices 15 and 16 to the Punjab Civil Services Rules Vol.I Part II have never been repealed, and Rule 8.57 of the said PCS Rules, as applicable to Haryana, read with Rule 73 of the HCS (Leave) Rules, 2016, entitles even contractual employees to all types of leave admissible to regular Government servants, while lastly submitting that the petitioners, who stand on a higher footing than ordinary contractual staff, cannot, therefore, be confined to a regime of merely 10 casual leave and 10 medical leave days despite the fact that their counterparts appointed prior to 2016 continue to enjoy the same benefits as regular govt. servants.

(17). Heard learned counsel for the parties.

Analysis

(18). Having heard counsel for both parties and perusing the material placed on record, it emerges out from the stand taken by the respondents/State in its written statement that after filing of the present writ petition, the respondents accepted the claim of the petitioners as to grant of higher pay scales, fixation of date of increment from January to July, 2019, enhancement of fixed medical allowance from Rs.500/- to Rs.1000/-. At this stage, the Court is left with adjudication of question as to whether the petitioners are entitled to medical reimbursement, LTC facility and other pensionary benefits including the earned leave which have been categorically denied by the respondents.

(19). The State justifies the denial of medical reimbursement, LTC facility and other emoluments on the premise that the petitioners are merely contractual appointees governed by the Haryana Law Officers (Engagement) Act, 2016 and therefore cannot claim parity with regular Government servants.

It is contended that their engagement is year-to-year and terminable, and thus they do not fall within the ambit of Government employees for the purpose of extending leave and travel benefits.

(20). The core issue that arises before this Court is

whether the petitioners, in light of the nature of their duties and conditions of service, can be denied core service benefits solely on the nomenclature of “contractual engagement” ?

(21). Before addressing the legal issue, it is necessary to situate the question within its proper constitutional and professional context. The appointment of lawyers by Government and public bodies, and the incidents of such appointment, cannot be examined merely through the narrow prism of contractual terminology.

(22). The legal profession, at its core, is a service-oriented profession. The history of the legal profession is inseparable from the history of justice itself. The lawyer emerged as a spokesperson for rights, a mediator of disputes, and eventually as an officer of the court. In India, this journey reflects a distinctive civilizational trajectory, rooted in dharma, refined through colonial institutionalization, and transformed by constitutionalism. While lawyering has, over time, become a full-time occupation and the principal source of livelihood for many, its essential character as a profession governed by ethics, independence and responsibility has remained unchanged.

(23). When the Government engages lawyers to represent it, though the character of that engagement does not *ipso facto* metamorphose into ordinary employment but the institutional responsibility remains heavy. The relationship between a lawyer and his client whether an individual or the State, occupies a

position of trust and confidence. When the client is the State, this responsibility acquires a constitutional dimension, for the lawyer then becomes an instrument in the administration of justice affecting the public at large. The Apex Court has recognized that the legal profession entails profound responsibility and occupies a unique position in the administration of justice, one that cannot be equated to any other traditional profession, observed in **“Bar of Indian Lawyers Through its President Jasbir Singh Malik v. D.K. Gandhi PS National Institute of Communicable Diseases 2024 INSC 410”** that

“ It is thus well recognized in catena of decisions that the legal profession cannot be equated with any other traditional professions. It is not commercial in nature but is essentially a service oriented, noble profession. It cannot be gainsaid that the role of Advocates is indispensable in the Justice Delivery System. An evolution of jurisprudence to keep our Constitution vibrant is possible only with the positive contribution of the Advocates. The Advocates are expected to be fearless and independent for protecting the rights of citizens, for upholding the Rule of law and also for protecting the Independence of Judiciary. People repose immense faith in the Judiciary, and the Bar being an integral part of the Judicial System has been assigned a very crucial role for preserving the independence of the Judiciary, and in turn the very democratic set up of the Nation. The Advocates are perceived to be the intellectuals amongst the elites and social activists amongst the downtrodden. That is the reason they are expected to act according to the principles of uberrima fides i.e., the utmost good faith, integrity, fairness and loyalty while handling the legal proceedings of his client. Being a responsible officer of the court and an important adjunct of the administration of justice, an Advocate owes his duty not only to his client but also to the court as well as to the opposite side.

The legal profession is different from the other professions also for the reason that what the Advocates do, affects not only an individual but the entire administration of justice, which is the foundation of the civilized society. It must be remembered that the legal profession is a solemn and serious profession. It has always been held in very high esteem because of the stellar role played by the stalwarts in the profession to strengthen the judicial system in the country. Their services in making the judicial system efficient, effective and credible, and in creating a strong and impartial Judiciary, which is one of the three pillars of the Democracy, could not be compared with the services rendered by other professionals. Therefore, having regard to the role, status and duties of the Advocates as the professionals, we are of the opinion that the legal profession is sui generis i.e unique in nature and cannot be compared with any other profession.”

(24). Therefore, the engagement of legal professionals as law officers of the State cannot be simply termed as “contractual” in nature to deny fairness and parity in service benefits. In today’s times, State is the largest litigant and its decisions touch every sphere of civil, economic and social life. Law Officers representing the State stand at the confluence of executive action and judicial scrutiny. Their role is neither transient nor ornamental, it is structural to constitutional governance with a constitutional obligation to protect the interest of the State with diligence and integrity. In “***State of U.P. v. U.P. State Law Officers Association 1994(1) SCT 863***”, the Supreme Court emphasized that Government Counsel, though not holders of civil posts in the strict sense, occupy a position of trust and responsibility integral to the justice delivery system. Their relationship with the State cannot be equated with that of independent private practitioners rendering occasional professional services.

(25). Equally, once the State engages legal professionals, prohibiting private practice and placing them under continuous institutional responsibility, it must ensure that their service conditions reflect fairness and dignity. Accordingly, the engagement of legal professionals as Law Officers of the State cannot be dismissed as merely “contractual” for the purpose of denying them fair and equitable service benefits. Given the constitutional significance of their duties, the continuous and indispensable nature of their work, and the heavy responsibility they bear in representing the sovereign before courts, such officers are entitled to be treated on par with regular incumbents. To restrict their entitlements on the basis of nomenclature alone would be arbitrary, undermine the dignity of the profession, and contravene the principles of equality, consistency, and legitimate expectation inherent in constitutional governance.

(26). It is undisputed that the petitioners were appointed pursuant to a public advertisement against sanctioned posts, they draw salary in regular pay scales under the Haryana Revised Pay Rules, 2016, they receive dearness allowance and annual increments, that their remuneration is charged to the Consolidated Fund of the State under the salary head and tax is deducted as in the case of regular employees and that they are expressly prohibited from undertaking private practice. They discharge full-time responsibilities including representing the State before constitutional courts, tendering legal opinions, vetting pleadings, and advising Government departments. Their role is neither casual nor consultative but is institutional and continuous in nature.

(27). The State, while conceding parity in pay and increments, seeks to deny them Leave Travel Concession, earned leave and medical reimbursement

on the ground that their engagement is contractual under the Haryana Law Officers (Engagement) Act, 2016. This argument, if accepted, would permit the State to appropriate the services of full-time Law Officers with all incidents of regular service, yet withhold essential benefits that secure rest, health and familial well-being. Constitutional jurisprudence does not permit such selective parity. Once the State treats the petitioners as regular salaried officers for all substantive purposes, it cannot, without rational basis, carve out exceptions that operate to their detriment. Nor can the State rely upon the contractual form of engagement as a shield. Public employment even when contractual is subject to constitutional discipline. Where the substance of the relationship reveals exclusivity, continuity and institutional integration, the Court must look beyond labels to reality.

(28). This court is mindful of the fact that, though the Government may classify employees differently based on tenure or contractual form is no doubt, a general proposition. However, classification must rest upon intelligible differentia having nexus with the object sought to be achieved. No material has been placed before this Court to demonstrate why full-time Law Officers discharging functions of the State should be denied LTC, earned leave and medical reimbursement while they continue to enjoy every other attribute of regular service. This denial appears not as a considered policy choice grounded in public interest, but as a residual relic of terminology and the Constitutional courts cannot permit substantive rights to be eclipsed by semantic devices.

(29). It is of particular significance that the petitioners are prohibited from engaging in private practice. By foregoing independent professional opportunities, they dedicate themselves entirely to the service of the State. To

deny them entitlements such as earned leave and medical reimbursement would be to impose the rigours of public service without affording its minimal securities. This Court further observes that Law Officers occupy a position of high esteem within the constitutional framework. They are officers of the Court whose advocacy shapes the development of law, whose opinions inform and influence executive policy, and whose fairness assists the judiciary in arriving at just and equitable conclusions. The institutional respect due to such officers is reflected not in mere rhetoric but in the grant of equitable service conditions that recognize the importance and responsibility of their office and to deny them earned leave, LTC and medical reimbursement benefits which secures dignity, rest and health would amount to treating them as inferior functionaries despite their higher constitutional responsibility.

(30). As far as the contention of the State that the petitioners accepted the engagement being governed by the provisions of 2016 Act is concerned, does not find favour in the mind of this Court, in fact admittedly the petitioners were appointed on 30.06.2018 i.e., prior to the above-said act coming into force and even after 2016 it is nowhere the case of the respondent/State that the petitioners were appointed under the said Act. In fact the initial appointment of the petitioners, which was made on 30.06.2018 has been retained by renewal of engagement from time to time as such the provisions of Haryana Law Officers Engagement Act, 2016 would not apply to the case of the petitioners, which otherwise also was given effect in the year 2019 alone, when certain new appointments in the office of Advocate General Haryana were made, whereas the appointment of the petitioners was only renewed/retained as it was in existence on that date.

(31). The doctrine of legitimate expectation also comes into play. The engagement letters stipulate entitlement to “usual allowances as sanctioned by the Haryana Government from time to time.” The State, by extending successive revisions of pay scales and allowances in line with Government employees, has created a consistent course of conduct giving rise to legitimate expectation that the petitioners will not be selectively excluded from core service benefits. Deviation from such established practice must satisfy the test of reasonableness, which the respondents have failed to demonstrate.

(32). Therefore keeping in mind, the fact that the petitioners as AAG/DAG are performing duties with higher responsibility and quantum of work than the other Law Officers working in various departments of the State Government. The petitioners not only plead cases and defend the State of Haryana in the Courts but are also made to give legal opinions, vetting of replies/written statements consultation with the Officers of the department related to the case of the State and other administrative assignments as asked by the Advocate General, Government of Haryana. Therefore, being deprived of their private practice, the denial of such benefits like LTC, Medical reimbursement and other emoluments tantamount to putting them at discrimination with the Law Officers such as ADAs, DDAs and DAs deputed in Government Departments.

(33). In view of the above discussion, this court is of the opinion that the petitioners are entitled to the relief claimed by them in terms of LTC, Medical reimbursement and other emoluments.

(34). Consequently, the respondents are hereby directed to release benefits like LTC, Medical reimbursement and other benefits/emoluments to

the officers appointed as AAG/DAG including the petitioners. This exercise shall be completed within a period of 4 weeks from date of receipt of a certified copy of this order.

(35). Accordingly, the present writ petition is **allowed** in the aforesaid terms.

20.02.2026
V.Vishal

(Sandeep Moudgil)
Judge

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |