

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. **CWP No.10726 of 2002 (O&M)**

Susheela Sharma and others ...Petitioners

Versus

State of Haryana and others ...Respondents

2. **CWP No.14910 of 2002 (O&M)**

Kulbir Kaur and others ...Petitioners

Versus

State of Haryana and others ...Respondents

AND

3. **CWP No.2218 of 2003 (O&M)**

Karam Singh and others ...Petitioners

Versus

State of Haryana and others ...Respondents

Date of decision: 06.05.2015

**Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present: Mr. Vikas Chatrath, Advocate
for the petitioners.**

Mr.Sudeep Mahajan, Addl. AG, Haryana.

HARINDER SINGH SIDHU, J.

This judgment shall dispose of three writ petitions bearing

Nos.10726 and 14910 of 2002 and CWP No.2218 of 2003, as all these petitions raise a similar issue for adjudication by this Court. However, for decision of the cases, the facts are being taken from CWP No.10726 of 2002.

The petitioners were initially appointed as JBT teachers and later on promoted to the post of Head Teachers (Primary). Details of their appointment as JBT teachers and promotion as Head teachers (Primary) and the pay scales granted to them are as under:-

Sr.No.	Name of petitioners	Date apptt. of JBT	Date of promotion as H.T.	Date of granting scale of 6500-9900	Scale of Rs.6500-9900 was withdrawn, if when
1.	Susheela Sharma, H.T.	10.5.69	13.8.90	1.9.2000	Withdrawn
2.	Jeet Singh Retd. H.T.	3.9.64	28.11.88	1.12.1998	"
3.	Mehar Singh H.T.	2.1.71	16.8.90	1.9.2000	"

The State of Haryana revised the pay-scale of its employees w.e.f. 1.1.1996 under the Haryana Civil Services (Revised Pay) Rules 1998 and Haryana Civil Services (Assured Career Progression) Rules 1998 notified on 7th January, 1998. Further by issuing letter dated 7.8.1998, revised pay-scales of certain categories of employees were modified and they were granted two modified pay-scales on completion of 10 and 20 years of service. Vide this notification, the Head Teachers (Primary) of the Haryana Education Department were granted the modified revised pay-scales as under:-

"i) 5500-175-6300-EB-175-9000

ii) 6500-9900 (After 10 yrs. of regular satisfactory service)

iii) 6500-10500 (After 20 yrs. of regular satisfactory service)”

In terms of the aforesaid revision of pay-scales, the petitioners herein were granted the modified pay-scale of Rs.6500-9900 on completion of 10 years of service and their pay was fixed accordingly, which is also depicted in the above table.

On 18.7.2001, the State of Haryana issued notification (Annexure P-4), whereby in the Haryana Civil Service (Assured Career Progression) Rules, 1998 notified vide notification dated 7.1.1998, Section 'B' was added providing for ACP scales for School Teaching Staff as under:-

Sr.No.	Functional pay scale of the post as on 31.12.95 on which the Government servant was directly recruited	Revised functional pay scale of the post as on 1.1.96	First Assured Progression pay	Second Assured Career Progression pay scale
1.	2.	3.	4.	5.
1.	1200-2040	4500-7000	5450-8000	5500-9000
2.	1400-2600	5500-9000	6500-9000	6500-10500

Petitioner No.1 – Susheela Sharma was issued a show cause notice dated 15.4.2002 (Annexure P-5) to re-fix her pay in the appropriate scale. It was stated that she had been granted higher functional scale of Rs.6500-9900 w.e.f. 1.9.2000 and her pay was fixed at the stage of Rs.8700/- in the said scale on 1.9.2000. It was stated that her pay should have been fixed at Rs.8650/- in the pay scale of Rs.5500-9000 in accordance with the instructions issued by the Government vide its letter dated 18.7.2001. Consequent upon the proposed re-fixation, a recovery of Rs.1938/- was also proposed to

be made. Similar show cause/ recovery notices were issued to other petitioners as well, which have been impugned through the instant petitions.

Learned counsel for the petitioners states that the said proposed re-fixation and recovery are illegal. It is stated that the matter is squarely covered by a decision of this Court dated 15.3.2012 in **CWP No.4747 of 2002 titled “Sushila Devi and others vs. State of Haryana and others”** and other connected cases wherein it has been held that the subsequent notification dated 18.7.2001 is not applicable to Head Teachers but is applicable only to JBT Teachers. It is stated that LPA No.2065 of 2012 filed by the State against the said judgment was dismissed on 1.4.2013. Learned counsel further states that to his knowledge, no SLP had been filed against the said orders, which have, in fact, been implemented by the State.

We have gone through the aforesaid decisions and find that the instant case is squarely covered by the same. In CWP No.4747 of 2002, the Learned Single Judge has observed as under:-

“As per the above reproduced provisions of the pay scales with special reference to Annexure-A, there is no doubt that Head Teacher has been treated as an independent entity. Their appointment to the said post either by way of direct recruitment or by promotion is to be treated as the initial date of their holding that post. Had the intention been of the State not to grant benefit to the Head Teachers and grant it to JBT Teachers alone, the simple procedure, which was required to be followed

by the respondents, was to delete the entry in the notification of Head Teacher and substitute it by JBT teacher, which has not been done. Rather what has been provided by the notification dated 18.07.2001 is that benefit of ACP Grade has been extended to the JBT Teachers which was not earlier granted to them. This notification would not be applicable to the petitioners, who are Head Teachers and thus, this subsequent notification does not affect the claim of the petitioners.

In view of the above, the impugned order cannot sustain and is hereby quashed. The writ petitions are allowed.

Petitioners are held entitled to fixation of their ACP Grade, as was earlier granted. The consequential benefits be released to the petitioners within a period of two months from the date of receipt of certified copy of this order.”

Dismissing the appeal of the State against the aforesaid judgement, the LPA Bench observed as under:-

“It is not in dispute that the post of Head Teacher is not coming within the purview of ‘direct recruitment’ and is rather a promotional post. In the Haryana Civil Services (Assured Progression) Rules, 1998, at Item No.25 of Annexure-A, it has been provided that the ACP grade has to be granted to the Head Teachers after completion of 10 years and 20 years regular and satisfactory service. By way of notification dated 18.07.2001, the scales of JBT Teacher has been added and the scales of Head Teachers has also been maintained therein. Had it been the intention of the appellants that the Head Teachers were not to be paid the ACP grade, their entry which has been independently

mentioned, would have been deleted. In this view of the matter, we are in full agreement with the reasoning adopted by the learned Single Judge while quashing the impugned order(s) and finding no legal error to tinker with the judgment of the learned Single Judge, all the present three appeals are hereby dismissed.”

Accordingly, these writ petitions are allowed in terms of the above judgments.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

May 06, 2015

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