

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

CWP No. 11203 of 2012

Dharampal Singh & others

....Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CWP No. 15505 of 2012

Rajinder Singh & others

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

Date of decision: 13.10.2015

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Tushar Sharma, Advocate, for the petitioners
(in CWP No.11203 of 2012).

Mr.R.K.Arora, Advocate, for the petitioners
(in CWP No.15505 of 2012).

Mr.L.S.Virk, Addl.AG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

This judgment shall dispose of CWP Nos.11203 of 2012 and 15505 of 2012, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP No.11203 of 2012 titled *Dharampal Singh & others Vs. State of Punjab & another*.

The petitioners seek quashing of the orders dated 20.04.2012 (Annexure P13/A), 15.03.2012 (Annexure P13/B) and 02.04.2012 (Annexure P13/C), on the ground that they are contrary to the judgment passed by this Court in CWP No.16380 of 1989 titled *Balbir Singh & others Vs. State of Punjab Etc.*, decided on 07.05.2009 (Annexure P8) and similar orders passed by this Court, in

view of the judgment passed in Balbir Singh's case (supra). It is not disputed that the same has been set aside by the Division Bench of this Court in LPA No.270 of 2012 on 14.08.2012 (Annexure R1), which order has been further upheld by the Apex Court in SLA (C) No.39188 of 2012 on 13.01.2015. However, the Apex Court has protected the employees to the extent that there would be no recovery, since the employees had been receiving the said amount. Relevant observation reads as under:

“We may, however, add that any amount that has been paid to the respondents till today shall not be recovered. We have said so by way of abundant caution, as a submission has been canvassed by the learned counsel for the petitioners that the State Government has been paying the amount during the pendency of the special leave petition. Be that as it may, we have only said that there will be no recovery and that does not remotely suggest that the State Government would pay the amount, if not paid.

The special leave petitions are accordingly dismissed.”

In the present set of cases, the petitioners, who are in large number, had approached this Court for the relief which has been granted by the Single Bench. Various directions had been issued by this Court and one such direction is dated 31.03.2010 (Annexure P11 Colly.) whereby the respondent authorities were directed to decide the cases of the petitioners in accordance with the judgment passed in Balbir Singh's case (supra). Vide order dated 08.09.2011 (Annexure P12), passed by the District Education Officer, relief was granted, subject to the final decision of the LPA, which was pending, at that point of time and thus, the petitioners were financially benefited. By subsequent orders dated 20.04.2012 (Annexure P13/A), 15.03.2012 (Annexure P13/B) and 02.04.2012 (Annexure P13/C), which are subject matter of challenge, the relief was sought to be withdrawn by respondent No.2.

Accordingly, counsel for the petitioners, very fairly submit that whatever has been received by the petitioners, in pursuance of the decision in

Balbir Singh's case (supra) and in view of the various directions issued by this Court, the petitioners are entitled to withhold the said amount and the respondents could not recover the same, as the same relief has been granted to the similarly situated employees, by the Apex Court.

Accordingly, the present writ petitions are disposed of, with the direction that whatever financial benefits have been paid to the petitioners, as noticed above, will not be recovered by the State. Regarding the writ petition pertaining to the relief of quashing of the orders whereby the relief was sought to be withdrawn by the Director of Public Instructions (Schools), Punjab, stands dismissed.

13.10.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE