

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

**CWP No.17405 of 2012
Date of decision: 28.05.2015.**

Parkash Devi

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. R.S. Pathania, D.A.G., Punjab
for the respondents – State.

Daya Chaudhary, J.

The prayer made in the present writ petition is for quashing of impugned letter/order dated 02.08.2010 (Annexure P-11), whereby, the benefit of three advance increments granted to the petitioner being *Giani*, was withdrawn. A further prayer has also been made for issuance of direction to the respondents not to withdraw the benefit of three advance increments in view of the decisions passed by this Court in **CWP No.738 of 2009** titled as **Manjeet Kaur and others vs. The State of Punjab and others** decided on **01.12.2009** (Annexure P-12) as well as **CWP No.3641 of 2012** titled as **Nirmal**

Kumari and another vs. The State of Punjab and others decided on **27.02.2012** (Annexure P-13).

The petitioner was initially appointed as JBT Teacher in the Punjab Education Department on adhoc basis on 21.12.1972 and thereafter, she was regularized on the said post on 16.09.1975. Subsequently, as per policy circular dated 23.07.1957, which was implemented by the State Government on the basis of decision passed in various writ petitions, the teachers working in Punjab Education Department were held entitled to the pay scales in accordance with their respective qualifications. The petitioner was possessing qualification of *Giani/Parbhakar* and she along with other similarly situated persons was granted pay scale of ₹170-350 with three advance increments and her pay was fixed with effect from the date of her acquiring *Giani/Parbhakar* qualification. It was decided by State of Punjab that all the teachers, who were appointed and had acquired the higher qualification prior to 19.02.1979, shall be entitled for higher pay scale as per their qualifications irrespective of the posts they were holding. The pay scales of such employees were revised from time to time.

The petitioner retired as JBT Teacher on 31.10.2007 on attaining the age of superannuation. After retirement, a letter dated 31.10.2008 was issued to the petitioner and other similarly situated employees stating therein that they had wrongly been given the benefit of three advance increments with effect from the date of

passing *Giani/Parbhakar* qualification whereas it was not admissible/permissible.

CWP No.738 of 2009 was filed to challenge the order of recovery by some of the employees, which was allowed on **01.12.2009**. The petitioner made a representation but her request was not accepted on the ground that she was not the petitioner in CWP No.738 of 2009.

The petitioner, thereafter, filed **CWP No.16070 of 2012** for release of the revised pension to her but the same was dismissed vide order dated **22.08.2012** with liberty to approach the Court afresh as and when any order detrimental to the interest of the petitioner is passed. Thereafter, the petitioner got the copy of letter dated 02.08.2010 as the same was not conveyed to her till filing of CWP No.16070 of 2012. Hence, the present petition.

Learned counsel for the petitioner submits that controversy in the present case is squarely covered by the decisions passed by this Court in **Manjeet Kaur's case (supra)** as well as **Nirmal Kumari's case (supra)** (Annexures P-12 and P-13, respectively).

Learned State counsel has not disputed the submissions made by learned counsel for the petitioner.

A perusal of decisions passed in **Manjeet Kaur's case (supra)** as well as **Nirmal Kumari's case (supra)** would show that the petitioner was granted the benefit of three advance increments on acquiring qualification of *Giani/Parbhakar*. Subsequently, after her

retirement, an objection was raised by the Office of Accountant General regarding grant of three advance increments and the pay of the petitioner was re-fixed. Aggrieved by order of re-fixing of the pay after retirement, some of the similarly situated employees approached this Court by way of filing a writ petition, which was allowed and order of recovery was set-aside. A direction was also issued to the respondents to release their pensionary/retiral benefits on the basis of pay received by them at the time of their retirement.

The decisions passed in **CWP No.738 of 2009** and **CWP No.3641 of 2012** (Annexures P-12 and P-13 respectively) has not been disputed by learned State counsel.

Accordingly, the present writ petition is allowed and the impugned letter dated 02.08.2010 (Annexure P-11), whereby, the benefit of three advance increments granted to the petitioner was decided to be withdrawn, is hereby quashed. The respondents are directed to consider the case of the petitioner in view of the decisions passed in **CWP No.738 of 2009** and **CWP No.3641 of 2012** by passing necessary orders within a period of three months from the date of receipt of certified copy of this order and to grant consequential benefits.

28.05.2015
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(DAYA CHAUDHARY)
JUDGE