

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

1. CWP no.6266 of 2010(O&M)

Raghbir Singh and others

....Petitioners

Versus

State of Haryana and others

...Respondents

2. CWP no.6386 of 2010(O&M)

Satya Pal Singh and others

....Petitioners

Versus

State of Haryana and others

...Respondents

3. CWP no 16448 of 2010(O&M)

Rajwanti Devi

....Petitioner

Versus

State of Haryana and others

...Respondents

Date of Decision : 26.08.2015

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.K.L.Dhingra and

Mr. Shyam Kumar Sharma, Advocates for the petitioners
in CWP no. 6266 of 2010

Mr. G.S.Bal, Sr. Advocate with
Mr. Mohan Singla, Advocate for the petitioners
in CWP no. 6386 of 2010

Mr.D.S.Bishnoi, Advocate for the petitioner
in CWP no. 16448 of 2010

Mr. Hitesh Pandit, Addl. AG, Haryana

MAHESH GROVER, J.

By this order I will dispose of above-said three civil writ petitions bearing

CWP nos.6266, 6386 and 16448 of 2010.

In all these writ petitions, the writ petitioners are working as language teachers in the Vocational Institutes. There are Lecturers (School Cadre) working in school under the Education Department of Haryana who were admissible to a pay scale distinct from that of the petitioners. The petitioners were working in pay scale of 1400-2600 whereas the lecturers in school cadre were getting 1640-2900. A writ petition came to be filed in this Court seeking parity of pay scales with the Lecturers of the school cadre on the premise that similar duties were being performed by the writ petitioners which was allowed, with LPA against it being dismissed as also the SLP. The judgment of the Hon'ble Supreme Court reported as AIR 1997(SC) 2468 titled as **State of Haryana and another vs. Ram Chander and another** categorically held the petitioners entitled to the similar pay scales as were being made admissible to the lecturers (school cadre) i.e the language teachers. It may not be out of place to mention that all these writ petitions were pertaining to language teachers only. Hon'ble Supreme Court while disposing of the matter has also referred to the distinct qualifications possessed by the petitioners as also the lecturers of the school cadre to negate the claim of the State for separate pay scales. The conclusion is obviously the negation of the stand of the State justifying different pay scales on the ground of difference in educational qualifications.

The petitioners were also held entitled to arrears on account of acceptance

of their plea, the relevant portion of the judgment of Hon'ble Apex Court is extracted

herebelow:-

It becomes, therefore, obvious that even though earlier in the State service Lecturers in higher secondary schools who were having first or second class degrees like M.A. 1st Class or 2nd Class were having higher pay scale of Rs.600-1100/- as compared to Trained Graduate Teachers who were having lesser pay scale of Rs.525-1050/-, they were now sought to be treated at par in so far as a uniform revised pay scale of Rs.1640-2900/- was suggested for all of them. Thus so far as Lecturers in higher secondary schools were concerned, earlier distinction in the pay scales on the basis of first or second class Post Graduate Degrees was sought to be done away with and these Lecturers were to be treated at par with Post Graduate Teachers of Central Government. When we turn to column 2 of Entry 3 we find that under Central Government Post Graduate Teachers were all given a uniform hike in pay scale of Rs.1640-2900/- meaning thereby the distinction between Post Graduate Teachers having 2nd class or 1st class M.A. Degree and those having a Pass Class Post Graduate Degree was given a go by and it is this uniform hike in pay scale which was recommended for acceptance of the State Government by the Pay Revision Committee. It is of course true, as submitted by learned counsel for appellants, that these

recommendations were not necessarily binding on the State authorities and it was open to them to suitably modify the pay scale which could be revised for different categories of employees in their discretion. Even though that is so When we turn to the Revised Pay Rules themselves we find that the appellants in their own discretion and wisdom have accepted the aforesaid recommendations of the Pay Revision Committee and have done away with the difference between the pay scales of 1st Class or 2nd Class Post Graduate Degree holder Lecturers in higher secondary schools and the Pass Class Post Graduate Degree holder Lecturers in higher secondary schools wherever they may be working and teaching standard 11 and 12 students. It has to be kept in view that both these classes of teachers have a common employer, State of Haryana. Respondents may be working as Teachers teaching higher secondary students of Class 11 and 12 in technical institutes while their counterparts who are styled as Lecturers may be teaching similar class of students in standard 11 and 12 in higher secondary schools. Both of them, therefore, must be treated to be on par and were in fact treated to be on par by the appellants themselves while promulgating the Revised Pay Rules and making available to them revised pay scales as will be seen presently.”

Subsequent thereto the State took a decision on 19.2.2008 to transfer 31 Vocational Institutes being run in the premises of the secondary schools to the Department of Secondary Education and consequently a notification no. IT/VT/merger/2008 dated 11.6.2008 transferred the Vocational Education Scheme from the Industrial Training and Vocational Education Department Haryana to the school Education Department with the administrative control of these 31 institutes as also the land, building, machinery, furniture being transferred to the Education Department. Following were the terms of the transfer, which are extensively relied by the respondents to justify separate pay scales to the petitioners as against the one admissible to the lecturers (school Cadre) in the education Department. :-

1. The buildings of the 31 erstwhile Vocational Education Institutes (VEIs) will be taken over by the adjoining schools of the School Education Department to be utilized by them irrespective of the level up to which that school is running. Any plant or machinery which is being used presently for the 12th Class (Class XII of traditional Vocational Education Institutes (VEIs) are still on), will be taken away by Industrial Training Department.

2. Option of studying 5th optional subject out of Computer Techniques, office Secretary-ship and Stenography in Hindi, Office Secretary-ship and Stenography in English. Accountancy & Auditing and Marketing & Salesmanship will be offered in 126 Senior Secondary

Schools of the State as per Annexure A from the academic session 2009-10.

Later on the posts of above streams may be shifted depending upon the demand for these subjects i.e 20 or more students willing to take 5th Vocational Subject. Further, if it is found that requisite numbers of schools are not in a position to start a particular vocational subject in the case the post be shifted to either Block Headquarter District Headquarter/State Headquarter for carrying out other duties. In such a case some of the staff being transferred from Department of Vocational Education, will be adjusted against these posts for carrying out office related duties which may include other job besides vocational stream.

3.The Haryana Board of School Education Bhiwani will notify the above five subjects in the list of optional subjects for +2 level. The syllabus for each of these subjects will be worked out by the Board.

4. The posts of Vocational Principals, Lecturers and Instructors which are being transferred from Industrial Training & Vocational Education Department will be allocated as per the re-designated posts to the designated Govt. Sr. Secondary Schools. These posts will be separately earmarked for staff being transferred from Industrial Training and Vocational Education Department.

5. All the staff being transferred from Industrial Training & Vocational Education Department, to the School Education Department will

continue to remain in separate cadres distinct from cadres of School Education Department even in case of similar subjects duties.

6. All the staff being transferred from Industrial Training & Vocational Education Department to the School Education Department will continue in their existing pay scale and will carry them pay at the stage where they were drawing in Industrial Training & Vocational Education Department.

7. The staff so transferred from Industrial & Training Vocational Education Department to the School Education Department will be posted against the posts earmarked/ allocated to the designated Senior Secondary Schools. Further, these employees will only be transferable against any post meant for the Lecturers of School Education Department and conversely no employee of School Education Department will be posted against such posts as earmarked for the transferred lecturers, Instructors of Vocational Education Department.

8. The erstwhile Principals of Vocational Education Institutes (VEIs) are in the pay scale of Rs.6500-10500/- which is the pay scale of Lecturers in School Education Department and also of Language Teachers (Lecturers) in Vocational Education Institutes (VEIs). There is no corresponding post in the School Education Department for Principals of Vocational Education Institutes (VEIs). Therefore, they shall be transferred

as Lecturers of the subjects of their post graduation and will teach same subjects in their own pay and scale. One post of Principal is re-designated as Deputy Vocational Education Officer (Dy. VEO (HQ) in his own pay and scale and one of the Principals now re-designated as Vocational Lecturer will be posted against this post.

9. The District Vocational Education Officer and Principal coming from Vocational Education Department are being governed by Haryana Industrial Training and Vocational Education Department (Group 'B') Directorate and Field Offices Service Rules, 1998 and remaining are being governed by the Haryana Industrial Training & Vocational Education Department. Field Offices (Group 'C') Service Rules, 1998, Rules on similar lines will be adopted by the School Education Department after requisite modifications. In the present scheme of things, Lecturer Hindi & English Language and Instructors in different vocational streams have separate pay scales but have a common seniority list. The School Education Department will continue with the same seniority list and the 28 Principals turned Vocational Lecturers will be added on the top of that seniority list in order of their existing seniority. Resultantly there will be only one seniority list for all from Sr.No.2 to 14 in table given above.

10. One post of Deputy Vocational Education Officer (DVEO) is re-designated as Vocational Education Officer (HQ) in the pay scale of

Rs.7450-11500/-. The pay scale of this post will be identical to that of the post of Deputy Vocational Education Officer (DVEO) in Industrial Training Department in future also and whatever pay scale is granted to the Deputy Vocational Education Officer (DVEO) in Industrial Training Department, the same pay scale will be given in School Education Department to the re-designated Vocational Education Officer.

11. The Lecturers and Principals of Vocational Education Department have a similar pay scale but are in different cadres and on the other hand Lecturers and Instructors have different pay scales but have a common seniority list. The Department of School Education will keep the same averments for then further progress in terms of promotion as were available to them till now in their parent department. For this purpose. 28 posts on the top of the seniority list will always be in the pay scale of Rs.6500-10500 of as revised from time to time. The senior most re-designated Vocational Lecturers (erstwhile Principal in VElS) in the band of 28 will be promoted to the re-designated post of Vocational Education Officer as and when it falls vacant due to retirement etc. of the present incumbent.

12. The Cadre of re-designated Vocational Lecturers will be a dying cadre. Meaning thereby that they will keep moving upwards into the band of 28 and from there as Vocational Education Officer (VEO) as per

their seniority and the posts from bottom will get abolished.

13. The instructors now re-designated as Vocational Instructors in their vocational subjects, when they move into the band of 28 will be designated as Lecturers on promotion in their vocational subject and will continue to teach the same vocational subject ie. Office Secretaryship (OSS)(Hindi) and Office Secretaryship (OSS)(English) or Accountancy & Auditing or Marketing & Salesmanship or Computer Technique.”

The grievance of the petitioners is that such a pay scale which is lesser than the one admissible to the lecturer school cadre in the education department is impermissible in view of the parity granted to them on a prior occasion under the orders of the writ Court as upheld by the Hon'ble Supreme Court.

The respondents in turn still justify the difference in pay scales on the ground that the petitioners are having lesser educational qualifications than those of lecturer school cadre. I am afraid this plea raised by the respondents is unsustainable in view of the fact that Hon'ble Supreme Court had categorically noticed such a plea to reject it while holding petitioners to the similar pay scale as admissible to that of the members of the education Department performing similar functions. For the purposes of reference a relevant extract from the judgment of the State of Haryana vs. Ram Chander and another (supra), Hon'ble Supreme Court where such a contention has been raised to be dealt with are extracted herebelow:-

“That so far as the educational qualifications were

concerned it was true that the Lecturers in school cadre were required to have Master's Degree in second division with 50% marks in the relevant subject, but the said educational qualification was more than offset so far as the educational qualifications of the respondent Language Teachers were concerned as they had to have additionally B.A., B.Ed. Degree with Hindi or English, as the case may be, as one of the teaching subjects in Bachelor of Education course along with master's Degree. Therefore, even though they might be holding Pass Class Master's Degree their experience in teaching was better being armed with Bachelor of Education Degree which was not the requirement for Lecturers in school cadre.

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12. We have also to keep in view the salient features of this case which have remained well established on record and which have been heavily relied upon both by the learned Single Judge and by the Division Bench of the High Court. They can be catalogued as under :

1. The respondents are Language Teachers, namely, they teach Hindi and English to standard 11 and 12 students who study in higher secondary classes. They however teach these students in technical institutes. But these students join these institutes after passing standard 10 examination. Their counterparts also join

standard 11 in higher secondary schools after passing the same examination of standard 10.

2. The respondents teach the same syllabus of Hindi and English to standard 11 and 12 students who appear at the same type of examination and write the same papers as are written by the standard 10 and 11 students who are taught Hindi and English in higher secondary schools.

3. Whether a teacher teaches Hindi and English languages to standard 11 and 12 students in a technical institute or in a higher secondary school makes no difference in the nature of duties and functions performed by these two sets of teachers.

4. Whether separate institutions under which they work maintain a different set of seniority lists or not would be a totally irrelevant consideration for deciding the question in controversy.

5. The students of standard 11 and 12 who are taught Hindi and English by the respondents are examined in the same subjects by the same institution, namely, Haryana School education Board which sets same type of examination papers on the basis of same syllabus, to the students taught by the respondents as well as to the students who are taught by Language Teachers attached to the regular higher secondary schools who also teach standard 11 and 12

students the very same Languages English and Hindi based on the same syllabus.

6. The students who are taught by respondents and pass out standard 12 examination will get the certificate of 10+2 examination on the same lines as students who pass standard 10+2 examination from higher secondary schools. These certificates obtained by vocational education institutes students are exactly at par with the certificates issued on completion of successful passing of standard 12 examination by general education students coming out of higher secondary schools.

7. Both these sets of students are eligible to get admission in B.A., B.Com. etc. and to pursue higher studies in colleges.

These aspects deal with the quality of work. So far as the quantity of work is concerned it is well established that in school cadre in Education Department a Lecturer teaches 30 periods in a week, one period is of 40 minutes' duration, i.e., 20 hours in a week whereas the Language Teachers like the respondents teaching in technical institutes teach for 24 hours in a week, one period being of one hour's duration, i.e., 24 hours in a week. Thus even quantitatively the work which the respondents do is more intensive as compared to the work done by their counterpart teachers in higher secondary

schools. That the difference in the nomenclature between the two sets of employees, namely, Language Teachers like the respondents in technical institutes and Lecturers in higher secondary schools does not represent any substantial cleavage in the quantity and quality of work done by both these sets of employees.

13. In the light of these salient features which are well established on record there would be no escape from the conclusion that but for the difference in educational qualifications both these sets of employees are similarly circumscribed. So far as the educational qualifications difference is concerned that would have, as noted above, made some vital difference but for the fact that the appellants themselves in their own wisdom thought it fit to ignore this difference in the educational qualifications by offering a uniform time scale of Rs.1640-2900/- to all Post Graduate Lecturers in higher secondary schools. For all these reasons no fault can be found with the decision rendered by the High Court especially in the light of latter developments at the end of the appellants themselves who treated all these teachers at par by promulgating the Revised Pay Rules in the light of the recommendations of the Pay Revision Committee as well as Pay Anomalies Commission as noted in details by us earlier.”

Once the petitioners were equated in terms of pay scales with the lecturers school cadre on the aforesaid reasoning the respondents cannot once again rake up a plea of lesser educational qualification possessed by the petitioners to deny them further revision of pay scales which might have come into existence to create resultant disparity in the pay structure admissible to lecturers school cadre and the petitioners. Consequently, such an action on the part of the respondents can at best be termed to be violative of Article 14 of the Constitution of India as it would create a two separate classes within a same class even when both the categories of persons are performing similar functions. Consequently, writ petitions are accepted and the action of the respondents in creating a disparity of pay scales between similar sets of employees is held to be bad. Petitioners are thus held entitled to similar pay scales as the ones admissible to the lecturers school cadre in language sections. They would be entitled to their arrears w.e.f 1.1.2006, the date when upward revision for lecturers school cadre was granted. The petitioners would also be entitled to interest on this payment at the rate of 8% per annum w.e.f the date when this amount felt due to the date of its realization.

Another grievance that has been raised by the petitioners is that the lecturers school cadre have been granted Gazetted Class II status on account of their pay. Hence, because of the pay parity granted to the petitioners such a consequence would also automatically befall on them.

Petitions stand allowed in aforesaid terms.

August 26, 2015

REKHA
2015-09-10 16:01
I hereby certify the accuracy and
authenticity of this document
High Court Chandigarh

(Mahesh Grover)

Judge