

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 20165 of 2015
Date of decision: 22.09.2015

Jarnail Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Dr. Naresh Kaushik, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 26.11.2014 (Annexure P-9) whereby, the benefit of higher grade pay had been declined by respondent no. 3 on account of the fact that the higher qualification was acquired after 19.02.1979.

Counsel has placed reliance upon judgment of this Court in ***CWP No. 3931 of 1992, Baldev Raj Mittal and others vs. State of Punjab***, decided on 15.04.2009 to submit that this Court has granted the said relief.

The said argument is misconceived. A perusal of the said judgment does not show that there was any dispute as to the fact whether the petitioners therein had acquired the qualification after 19.02.1979. A Division Bench of this Court in ***State of Punjab and others vs. Joga Singh and others, 1996 (2) RSJ 738***, after keeping in mind the law laid down by the Apex Court in ***Wazir Singh, JBT Teacher and others vs. State of Haryana and others AIR 1996 (SC) 889***, held that teachers who had joined service after 19.2.1979 and have improved their qualifications after issuance

of letter dated 19.2.1979 shall not be entitled to the benefit of higher pay scale automatically. The relevant portion of the said judgment reads thus:-

“9. From the facts stated herein above, it is clear that the Government of Punjab changed its Policy of granting higher pay scales from the date of acquisition of higher qualifications vide the instructions contained in the circular, dated 19th February, 1979, the relevant portion from which has been reproduced herein before. In terms of the aforesaid instructions, the teachers who were appointed on lower posts after 19th February, 1979 with higher qualifications and also those teachers who were already serving and acquired higher qualifications after February, 1979 were not entitled to automatic grant of higher pay scales. In the case of Wazir Singh (supra), the Supreme Court has held that the judgment of the Apex Court in Chaman Lal's case (supra) will have no application where the government has altered their Policy. Thus, it was held by the Apex Court that the Government could alter the Policy. In fact, the Hon'ble Supreme Court in the case of Wazir Singh (supra) has explained the scope of their earlier decision in the case of Chaman Lal (supra) and have clearly held that the teachers could not claim the benefit of higher pay scales automatically on acquisition of the higher qualifications but could claim such benefit only in accordance with the new Policy which, in the present case, is contained in the Circular dated 19th February, 1979. Relying on the judgment of the Supreme Court in Wazir Singh (supra) a Division Bench of this Court in the case of Kanwaljit Kaur (supra) has also observed that the view taken by the learned Single judge in his judgment in the case, Joga Singh and another v. State of Punjab and others, C.W.P. No. 11995/1989 (impugned in these appeals) is

not the correct law in view of the law laid down by the Apex Court.

10. For the reasons recorded herein above. We are of the opinion that the view taken by the learned Single Judge in the impugned judgment does not represent correct law in view of the law laid down by the Apex Court in the case of Wazir Singh (supra). Accordingly, we allow L.P.A. Nos.374, 1137 and 933 of 1994, L.P.A. Nos.44, 46 and 470 of 1995 and set aside the impugned judgment, dated 13th October, 1993, passed by the learned Single Judge in C.W.P. Nos. 11995 of 1989, 1 167 of 1989 and 4515 of 1986. We further hold that the writ petitioners who have joined service after 19th February, 1979 or have improved their qualifications after issue of the letter dated 19th February, 1979 shall not be entitled to the benefit of higher pay scales automatically and they shall be entitled to the benefit of higher pay scales only in accordance with the new Policy contained in the Circular, dated 19th February, 1979. The parties are, however, left to bear their own costs.”

Keeping in view the settled position, the claim is totally misconceived and accordingly, the present writ petition is dismissed.

22.09.2015
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(G.S. SANDHAWALIA)
JUDGE