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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-2178-2012 [O&M]

Date of Decision : December 3rd, 2015

The State of Punjab and others

.... Appellants

Versus

Raj Krishan Grover and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present Mr. B.S.Chahal, D.A.G. Punjab,
for the appellants-State.

None for the respondents.

SHEKHER DHAWAN, J.

For the reasons mentioned in CM No.5764-LPA-2012, which is supported by an affidavit, delay of 156 days in filing the appeal is condoned.

Main Appeal

Present intra-court appeal under Clause X of the Letters Patent has been filed by the appellants against the order dated 22.03.2012 passed by learned Single Judge, whereby writ petition filed by the respondents here was allowed.

2. In the present case, the respondents herein, who were teaching and non-teaching employees working in privately managed recognized

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aided schools under their respective Managing Committees, had claimed parity of pay scales and allowances with the employees of the Punjab Government in terms of policy decision dated 14.2.1985 issued by Government of Punjab. As per the respondents, the said letter is being followed with another communication dated 23.12.1988 that all the employees are being paid the amount equal to the House Rent Allowance charged by the Government from employees for Government accommodation i.e. 5% of the basic pay in addition to the normal House Rent Allowance if admissible at the place of posting. As per the respondents, they have been denied the same benefit by the Government on the ground that they are not Government employees and as such they cannot claim such a parity.

3. The appellant – State of Punjab filed the present appeal with the plea that the above mentioned instructions are not applicable to the employees of privately managed aided schools as the same are meant for Government employees only. The employees working in privately managed recognized schools are entitled to be paid the pay scales and allowances at the rate at which their counter-parts working in Government schools are paid after introduction of Delhi Pattern of Grant-in-Aid Rules, 1967 and in view of Section 7 of the Punjab Privately Managed Recognized School Employees [Security of Service] Act, 1979 [for short, “the Act”] and in view of the law laid-down by Hon`ble Supreme Court in **Haryana State Adhyapak Sangh V. State of Haryana**, AIR 1988 SC 1663. Government employees are entitled to rent free accommodation and if not provided/allotted, they are entitled to payment equal to house rent charged by the Government from employees for Government accommodation that

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is 5 per cent of the basic pay in addition to the normal house rent allowance, if admissible at the place of posting. As such, the allowance is admissible only to the Punjab Government employees. However, learned Single Judge has not appreciated this controversy in its true perspective and as such, the impugned order dated 22.3.2012 is liable to be set-aside.

4. We have considered the submissions made by learned counsel for the appellants and are of the considered view that learned Single Judge has not considered these aspects while dealing with the issue and allowing the writ petition filed by the respondents herein. As regard to parity of salary and dearness allowance payable to the staff of Punjab Government privately managed recognized schools, the same has been removed under Section 7 of the Act. However, payment of 5% of the basic pay in addition to the normal House Rent Allowance is a concession and the respondents cannot claim it as a matter of right. We say so because of the reasons that firstly, the teaching and non-teaching employees working with the Government aided privately managed recognized schools are not entitled to government accommodation. Secondly, the concession of 5% in addition to the normal House Rent Allowance is being claimed on the basis of executive instructions issued by the State of Punjab on 14.2.1985 and not under any statutory rule. More so, if they are not entitled to get government accommodation, they are not entitled to 5% of the basic pay in addition to the normal House Rent Allowance. The Government is not bound to provide them government accommodation as they are not the employees of the Government. Rather, they are employees of the respective Managing Committees of privately managed recognized aided schools. So, the question of granting 5% of the basic pay in addition to the

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normal House Rent Allowance does not arise. Though, the benefit of pay scales and dearness allowance is to be allowed to the staff of privately managed recognized aided schools, yet they are not entitled to claim benefit of 5% of basic pay in addition to the normal House Rent Allowance.

The same view was taken by Hon`ble Supreme Court of India in **State of Punjab and others Vs. Om Parkash Kaushal and others**, Civil Appeal No. 9103-05 of 1996 decided on 8.7.1996.

5. In view of the above, present appeal is accepted and the order dated 22.3.2012 passed by learned Single Judge of this Court, is set-aside and consequently, writ petition filed by the petitioners [Respondents in present LPA] stands dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

December 3rd, 2015
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