

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14515 of 2000(O&M)

Date of decision:25.10.2016

Krishan Chand & ors.

... Petitioners

Versus

The State of Haryana & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. RN Sharma, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, A.A.G., Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. Admittedly, the petitioners were appointed to service after December 1, 1967 or had acquired their higher qualification after December 1, 1967. The State Government revised the pay scale w.e.f December 1, 1967. Earlier instructions were superseded by the revised pay scales enforced by rules. As a result, the pay would have to be at par with qualifications laid down in the rules for the post in question and higher qualifications alone would not bring with them the benefit claimed. Besides, this matter is covered by the decision of the Supreme Court in State of Haryana & ors. vs. Hem Lata Gupta & ors., (2010) 2 SCC 369.

2. Mr. RN Sharma admits that this case is covered by the ratio of *Hem Lata Gupta's* case. He, however, submits that some of his clients who are party to this petition, that is, petitioners No.10, 14 & 17 may be afforded protection in terms of the paragraph 32 of the judgment which reads as under:-

“32. In the result, the appeals are allowed. The impugned orders are set aside and the writ petitions filed by the respondents before the High Court are dismissed.

However, it is made clear that this order shall not be made a ground to deny the benefit, if any, admissible to the respondents or any one of them in terms of the policy contained in letter dated 20.6.1977. Rather, the State Government and the authorities concerned should suo motu undertake appropriate exercise for grant of benefit of that policy to the respondents and other similarly situated persons, pass appropriate orders and pay monetary benefits to the teachers concerned within six months from the date of production/receipt of copy of this judgment. Needless to say that such benefit shall not be admissible to the teachers who may have improved their qualifications on or after 20.12.1982 i.e., the date on which the policy contained in letter dated 20.6.1977 was withdrawn.”

3. Without making any comment, the matter would remain between the identified petitioners who are said to have earned the higher qualifications in January and May, 1978 and one of them in July 1976 respectively, in the order No.10, 14 & 17. The ruling in *Hem Lata Gupta's case* has been applied by the Coordinate Bench of this Court in Smt. Chander Kala & ors. v. The State of Haryana & anr. (CWP No.2076 of 2000), decided on March 12, 2013 and three other connected cases.

4. Learned Single Judge in *Chander Kala* disposed of the writ petition holding that they would be entitled to such consideration as the judgment in *Hem Lata Gupta's case* (supra) affords. It has been pointed out by Mr. Sharma that the last sentence of the judgment in *Hem Lata Gupta's case* may be noticed herein inasmuch as the Supreme Court had directed that the benefit of two additional increments for acquiring higher qualifications shall not be admissible to the teachers who had improved their qualifications on or after December 20, 1982 i.e. the date on which the policy contained in Letter dated June 20, 1977 was withdrawn. This part will remain open for consideration by the Government, in case a

representation is made by the select few, that may take to the authorities for decision, in the first instance.

5. Ms. Shruti Goyal points out, as a parting gift to Mr. Sharma's clients that the case relied upon in the petition i.e. CWP No.19353 of 1996, Sudershan Kumar & ors. v. The State of Haryana & ors., with copy at Annex P-4 was allowed and the clarification application filed by the State in the said case, was disposed of on January 21, 2000 with the following observations:-

“We may only mention that the judgment was inter parties.
If any other person makes a claim, the applicants shall be entitled to raise suitable pleas in accordance with law and the matter shall be opened for consideration by the Bench.
This application is, accordingly, disposed of.”

6. Since the decision in the case relied upon by the petitioners was held to be intra parties, it is not a judgment which can be said to be in *rem* and therefore the ruling has to be confined only to those teachers who have approached the Court and admittedly the petitioners were not parties to that petition.

7. Accordingly, this petition stands disposed of in terms of the decision in *Hem Lata Gupta's case*.

(RAJIV NARAIN RAINA)
JUDGE

25.10.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*