

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

**CWP No.3953 of 1995
Date of decision:15.3.2016**

Baldev Singh & ors. ... Petitioners
Versus

State of Punjab & ors. ... Respondents

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

Present: Ms. Alka Chatrath, Advocate,
for the petitioners.

Mr. Harkesh Manuja, Addl. A.G., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. With the coming into force of the Punjab Pay Scales of Teachers Act, 2004 (Punjab Act No.1 of 2005) which received the assent of the Governor of Punjab on December 31, 2004, the impugned order at Annex P-10 deserves to be revisited by the department. Section 3 of the Act deals with grant of pay scales as per rules and notifications de hors educational qualifications. The department of Finance vide Instructions No.9/9/79-FR(2)/143, dated February 19, 1979, gave benefit of higher pay scales on the basis of qualifications to those teachers who were appointed to service up to February 19, 1979 or who improved their qualifications up to that date but not thereafter. It is beyond cavil that the petitioners were appointed on different dates as JBT Teachers on dates ranging from 1961 to 1977 who had either acquired higher qualifications while in service and had acquired them prior to their entry into service.

2. The prayer in this petition is for grant of senior/selection grade and for this claim reliance is placed by the petitioners on the decision of the Division Bench of this Court in Letters Patent Appeal No.893 of 1994, titled 'State of Punjab v. Suresh Chand J.B.T. & ors.', decided on 14.11.1994 and yet another decision of the Division Bench delivered in CWP No.15576 of 1994, decided on 23.1.1995 allowing the petition in terms of the order passed in *Suresh Chand* 's case cited next before.

3. In view of the supervening events, this Court deems it appropriate that the competent authority should in the first instance take a decision on the rights of the petitioners as pressed in this case in examining whether the petitioners have a right to senior scale and selection grade with a view to enhance their pension in the background that each on of them retired from service during the pendency of the writ petition.

4. In the fluid circumstances, this petition is disposed of with a direction to the respondents to consider and decide the prayers of the petitioners in the light of subsequent events including on the issue whether the petitioners have an accrued, vested and settled right to relief sought prior to the cutoff date fixed in the Act.

5. As a result, the impugned order dated February 14, 1994 [Annex P-10] is set aside not being in sync with the law declared by this Court. Consequently, a writ of mandamus is issued to the respondents to decide the matter afresh by taking an independent decision on all the issues involved in this case as portrayed in the case papers submitted for

consideration. Hence, this renewed exercise is directed to be done and concluded within three months from the date of receipt of a certified copy of this order. If the petitioners make a request for personal hearing, the same shall be granted to them in a manner convenient to the competent authority. In case the order to be passed is adverse to the interest of the petitioners, they will be at liberty to approach this Court again. In case, the benefits are to be granted, then the monetary benefits including re-fixation of pension and pensionary benefits may be done within the same time framed and the amount payable after calculation be paid within two months next thereafter.

6. With the above directions the petition stands disposed of to await compliance with the liberty as aforesaid.

(RAJIV NARAIN RAINA)
JUDGE

15.3.2016
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