

205

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

CWP No.14964 of 2011

Date of Decision: 28.01.2016

Kusum Lata

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HONBLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Umesh Narang, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

DEEPAK SIBAL J. (ORAL)

While the petitioner serving the respondent as Hindi Teacher, through order dated 11.01.2000, the benefit of higher grade on the basis of higher qualification i.e. JST grade was granted to her as per the instructions of the State Government. However, the Apex Court in the **“State of Haryana Vs. Sumitra Devi” 2004(1) RSJ 552** held that the benefit of higher grade on the basis of higher qualification is to be granted only to those teachers, who have acquired higher qualification while in service and not to those employees who were holding the higher qualifications prior to their entry into service.

Since the petitioner had acquired the higher qualification before joining the service of the State, in view of **Sumitra Devi's case (supra)**, through the impugned order dated 30.04.2011 (Annexure P-10) the benefit of higher grade (JST grade) granted to the petitioner on 11.01.2000 was ordered to be withdrawn. Consequently, recovery was

also ordered to be made.

Learned counsel for the petitioner does not press the withdrawal of the JST grade, however, while referring to the following paragraph of a Division Bench judgment of this Court in **CWP No.6599 of 2007** titled as **“Shakuntla Devi and another Vs. State of Haryana and others”** decided on 04.03.2008, submits that no recovery be made from the petitioner:-

“However, it is made clear that if the benefit of higher grade on the basis of higher qualification i.e. JST grade was granted to any of the petitioner(s) by the respondents on their volition i.e. without any binding judicial order, then the benefit can be withdraw with effect from the date of grant, in view of the mandate of Hon'ble Supreme Court in Sumitra Devi's case (supra) after following the principles of natural justice, but no recovery of excess amount already paid to the petitioners shall be effected for the period from the date of grant till the date of the passing of the orders in accordance with law, keeping in view the law laid down by the Hon'ble Supreme Court in Sahib Ram v. State of Haryana, 1995(2) Recent Service Judgments 139.”

Learned counsel for the petitioner further submits that directions given in Shakuntala Devi's case (supra) as quoted above stand implemented by the State of Haryana, through instructions dated 25.06.2009 (Annexure P-5).

The factual aspect of the matter is not disputed by the State.

In view of the aforesaid position, the case of the petitioner is fully covered by the above quoted directions given by the Division Bench in Shakuntala Devi's case (supra).

Consequently, while upholding the State's action to withdraw the JST grade granted to the petitioner on 11.01.2000, it is directed that no recovery be effected from her.

The present writ petition stands allowed in the above terms.

28.01.2016

Bhumika

(DEEPAK SIBAL)

JUDGE