

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

**C.W.P No. 1885 of 2011  
Date of decision : 11.05.2016**

**Mahinder Pal and others**

**...Petitioners**

**versus**

**State of Haryana & anr.**

**..Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Ms. Anu Chatrath, Sr. Advocate with  
Ms. Harmanpreet Kaur, Advocate  
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana

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

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**RITU BAHRI, J.**

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing circular/order dated 24.02.2009 (P-4) and 15.04.2009 (P-5) to the extent that the petitioner are being treated as fresh entrants and despite the merger of the cadres are not being granted the benefits of the said merger. Further prayer is for issuance of direction to the respondents to treat/designate the petitioners as Vocational Lecturers and treat them as part of School Education Cadre.

The petitioners are working in the Secondary Education Department on being transferred from the Department of Industrial Training and Vocational Education to which posts they were appointed on regular basis as they possessed the qualifications prescribed under the statutory rules called the "Haryana Industrial Training and Vocational Education

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Department Field Officers 'Group C' Service Rules 1998 (for short 'Rules 1998'). Petitioners initially joined as Vocational Instructors in the Department of Industrial Training and Vocational Education. Since they possessed the qualifications as that of Lecturers in Education Department i.e M.Com, they gave representation to the Industrial Training and Vocational Education Department to re-designate them as Lecturers, which was accepted vide order dated 25.10.2007 and the designation of the petitioners was changed from Vocational Instructors to Vocational Lecturers in the Industrial Training and Vocational Education Department.

Thereafter, Government of Haryana took a policy decision to transfer the vocational scheme from the Industrial Training and Vocational Education Department to the Secretary, Education Department which was approved by the Council of Ministers in its meeting held on dated 19.02.2008. A notification dated 11.06.2008 was also circulated in this regard. The administrative control of the assets of 31 Vocational Education Institutes including land, building, machinery etc was also transferred to the Education Department, Haryana. An order dated 24.02.2009 was passed by the Haryana Government, Department of Education to transfer the number of posts. The posts on which the petitioners were working were also included in the said chart to be transferred to the Department of School Education, Haryana. Vide order dated 15.04.2009, the Directorate of School Education Government of Haryana imposed the conditions mentioned below:-

- “(i) the staff so transferred from the Vocational Education Department was to remain on probation for a period of two years.*
- (ii) the designation of Lecturers like the petitioners was changed from Lecturer to that of Instructor.”*

Thereafter, the Department of Industrial Training and Vocational Education, Haryana vide letter dated 09.09.2009 gave reply under the RTI Act that the designation has been sent as Vocational Lecturers.

The present writ petition was admitted on 09.12.2014 and the writ was to be listed along with CWP No. 10269 of 2010.

In CWP No. 10269 of 2010, circular/order dated 24.02.2009 (P-4) and 15.04.2009 (P-5) have come up for consideration and this Court vide order dated 23.09.2015 allowed the writ petition and action of the respondents in creating distinct pay scales of the petitioners to that of the respondents was held to be discriminatory. The petitioners were held entitled to same pay scales as admissible to Lecturers of the Education Department with consequential benefits. The arrears were restricted to 38 months. The relevant portion of the judgment reads as under:-

*“On perusal of the aforesaid, I am of the view that the stand of the respondents cannot be sustained in the eyes of law for the simple reason that the petitioners were designated as Lecturers and had similar qualification as the ones possessed by the Lecturers in the School Education Department. The petitioners having been absorbed in the Education Department would be entitled to similar treatment in matters of pay particularly when there is no distinction between the functions being discharged by both the sets of employees. It has been stated that the petitioners are teaching higher classes of 11th and 12th whereas Lecturers in Education Department were teaching classes 9th to 12th. The functionality aspect, therefore, being similar along with the Educational qualification, there would be no justification with the*

*respondents to deny parity in pay scales particularly when this aspect has been specifically dealt with by the Hon'ble Supreme Court to negate a similar stand.*

*In the case relied upon by the petitioners in CWP-6266-2010, this Court had granted parity of pay scales of the Lecturers of the Vocational Institutes with those of the Educational Departments even though there was a difference in qualifications. In that case the petitioners therein had been equated in terms of pay scale with Lecturers of School cadre but denied them further revision on the ground of higher qualification.*

*The cases in hand would be on better footings as there is no distinction between the two sets of employees either in terms of education or in terms of functionality.*

*Consequently, these two writ petitions are allowed and the action of the respondents in creating distinct pay scales for the petitioners to that of the respondents is held to be discriminatory.*

*As a result thereof, the petitioners would be held entitled to the same pay scales as admissible to the Lecturers of the Education Department. The respondents are directed to grant all consequential benefits to the petitioners resulting from such parity. The arrears be restricted to a period of 38 months prior to the filing of the writ petitions. ”*

Reference at this stage can further be made to CWP No. 6266 of 2010 titled as ***Raghubir Singh and others vs. State of Haryana and others and connected matters, decided on 26.08.2015*** wherein the grievance of the petitioners is that such a pay scale which is lesser than the one

admissible to the lecturer school cadre in the education department is impermissible in view of the parity granted to them on a prior occasion under the orders of the writ Court as upheld by the Hon'ble Supreme Court. The respondents in turn still justify the difference in pay scales on the ground that the petitioners are having lesser educational qualifications than those of lecturer school cadre. This Court allowed the writ petition and observed as under:-

*“These aspects deal with the quality of work. So far as the quantity of work is concerned it is well established that in school cadre in Education Department a Lecturer teaches 30 periods in a week, one period is of 40 minutes’ duration, i.e., 20 hours in a week whereas the Language Teachers like the respondents teaching in technical institutes teach for 24 hours in a week, one period being of one hour’s duration, i.e., 24 hours in a week. Thus even quantitatively the work which the respondents do is more intensive as compared to the work done by their counterpart teachers in higher secondary schools. That the difference in the nomenclature between the two sets of employees, namely, Language Teachers like the respondents in technical institutes and Lecturers in higher secondary schools does not represent any substantial cleavage in the quantity and quality of work done by both these sets of employees.*

*13. In the light of these salient features which are well established on record there would be no escape from the conclusion that but for the difference in educational qualifications both these sets of employees are similarly circumscribed. So far as the educational qualifications difference is concerned that would have, as noted above, made some vital difference but for the fact that the appellants themselves in their own wisdom thought it fit to ignore this difference in the educational qualifications by offering a uniform time scale of Rs.1640-2900/- to all Post Graduate Lecturers in*

*higher secondary schools. For all these reasons no fault can be found with the decision rendered by the High Court especially in the light of latter developments at the end of the appellants themselves who treated all these teachers at par by promulgating the Revised Pay Rules in the light of the recommendations of the Pay Revision Committee as well as Pay Anomalies Commission as noted in details by us earlier.*

*Once the petitioners were equated in terms of pay scales with the lecturers school cadre on the aforesaid reasoning the respondents cannot once again rake up a plea of lesser educational qualification possessed by the petitioners to deny them further revision of pay scales which might have come into existence to create resultant disparity in the pay structure admissible to lecturers school cadre and the petitioners. Consequently, such an action on the part of the respondents can at best be termed to be violative of Article 14 of the Constitution of India as it would create a two separate classes within a same class even when both the categories of persons are performing similar functions. Consequently, writ petitions are accepted and the action of the respondents in creating a disparity of pay scales between similar sets of employees is held to be bad. Petitioners are thus held entitled to similar pay scales as the ones admissible to the lecturers school cadre in language sections. They would be entitled to their arrears w.e.f 1.1.2006, the date when upward revision for lecturers school cadre was granted. The petitioners would also be entitled to interest on this payment at the rate of 8% per annum w.e.f the date when this amount felt due to the date of its realization. Another grievance that has been raised by the petitioners is that the lecturers school cadre have been granted Gazetted Class II status on account of their pay. Hence, because of the pay parity granted to the petitioners such a consequence would also automatically befall on them.”*

In the present case, vide letter dated 25.10.2007, a conscious

decision was taken by the Government to change the designation of the petitioner from Vocational Instructors to Vocational Lecturers and thereafter, a condition was imposed that the staff so transferred from the Vocational Education Department was to remain on probation for a period of two years. and the designation of Lecturers like the petitioners was changed from Lecturer to that of Instructor.

Once the designation of the petitioners were changed from Vocational Instructors to Vocational Lecturers way back in the year 2007 and were absorbed in the Education Department, they are entitled to the pay scales as the ones admissible to the Lecturers but they cannot claim further revision on account of acquiring higher qualification.

In view of the above, the present writ petition is being disposed of in terms of CWP No. 10269 of 2010 titled as Makahan Singh and others vo State of Haryana and others, decided on 23.09.2015 and C.W.P No. 6266 of 2010 titled as Raghbir Singh and others v. State of Haryana and others, decided on 26.08.2015.

**(RITU BAHRI)**  
**JUDGE**

**11.05.2016**

G Arora