

C.W.P No. 22329 of 2015

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. C.W.P No. 22329 of 2015

Ram Singh Kalra and othersPetitioners

Versus

State of Punjab and othersRespondents

2. C.W.P No. 1888 of 2016

Harbans Kaur and othersPetitioners

Versus

State of Punjab and othersRespondents

DATE OF DECISION:30.11.2016

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sandeep Walia, Advocate for
Mr. R.K. Arora, Advocate
for the petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

This judgment of mine shall dispose of two writ petitions bearing C.W.P. Nos. 22329 of 2015 and 1888 of 2016 as the relief claimed in both the cases is the same. However, the facts are being extracted from CWP No. 22329 of 2015.

The prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing the action of the respondents in reducing the pay scale/grade pay of the petitioners after their retirement which is

violative of Punjab Government instructions dated 17.2.1989 whereby the revised pay scale of teaching staff of Education Department was notified and the categories of language teachers to which the petitioners belong, i.e. Hindi, Punjabi, Urdu Teachers were allowed the pay scale of ₹ 1640-2925, senior scale of ₹ 1800-3200 on completion of 8 years and also selection scale of ₹ 2000-3500 after 18 years and also the pay scales revised from time to time.

Learned counsel for the petitioners contends that case of the petitioners is at par with similarly situated persons who filed C.W.P. No. 1837 of 2016 titled as **Surjit Singh and others Vs. State of Punjab and others** decided on 1.8.2016. In that case the claim of the petitioners was admitted by the respondents. Said petition was disposed of on the basis of written statement filed by the respondents by issuing direction to release the necessary payment within a period of three months.

In response to notice of motion short reply by the respondent-State has been filed. Facts are not disputed by the parties.

Learned State counsel has not disputed the decision of **Surjit Singh's case (supra)**.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file as well as the order passed in C.W.P. No. 1837 of 2016. Said petition was disposed of on the basis of stand taken in the written statement. The relevant portion of order passed in C.W.P. No. 1837 of 2016 and other connected matters is reproduced as under:-

“On perusal of the reply filed by the respondent-State, it is clear that the grievance of the petitioners has already been redressed

and nothing survives in the present petition. Para Nos.4, 5 and 6 of the written statement are reproduced as under:-

“4. That vide notification dated 17.02.1989, the pay scales of teaching personnel were revised with effect from 01.01.1986 and the Language Teachers were given the pay scale meant for Masters/Mistresses as a measure personal to them. In the subsequent pay revisions pay scales of Language Teachers had not been notified separately. At present the pay band for Masters/Mistresses is Rs.10,300- 34,800 + Grade Pay Rs.5,000/- effective from 01.12.2011. The Respondent-State vide Notification dated 05.11.2011 revised the grade Pay of Classical and vernaculars Teachers from Rs.3,200/- to Rs.4,400/- as Language Teachers. Such as the petitioners, are part and parcel of a cadre which generally known as Classical and Vernacular Teachers, therefore, a confusion prevailed with regard to admissibility of Grade pay to Language Teachers i.e. Punjabi Teacher, Hindi Teacher, Urdu and Sanskrit Teachers, which led to issuance of clarification dated 24.08.2015 (Annexure P-11).

5. That it is further respectfully submitted that on examination of entire matter, it was felt that the above said clarification dated 24.08.2015 given by the Department of Finance was not in consonance with the factual position with regard to admissibility of Grade Pay to Language Teachers. Therefore, in order to resolve the matter for all the times to come, the matter was taken up with the Department of Finance. After

considering the entire matter, Respondent No.2 in consultation with the Respondent No.1 vide Memo No.11/63/15-4 Edu. 6/724324/1, dated 31.03.2016 (Copy appended as Annexure R-2/1) has clarified as under:-

“Advised is to implement the pay scales as given in their notification dated 17.02.1989 keeping in view the facts mentioned in these instructions that these scales are given as a measure personal to the present incumbent (Language Teachers) and in future, masters be appointed as Language Masters.”

6. That it is further respectfully submitted that in pursuance of the above said advice given by the Government, the detailed instructions regarding grant of pay scale of Rs.10,300-34,800 + Grade Pay Rs.5,000/- effective from 01.12.2011, which is meant for Language Masters have been issued to all the District Education Officers in the State of Punjab for its implementation vide Memo No.09/256-2015 Estt. 5(3), dated 30.05.2016, a copy of which is being appended as Annexure R-2/2 hereto for the kind perusal of this Hon'ble Court. Vide the said instructions, it has, inter-alia, been clarified that the Language Teachers, like the petitioners, are entitled to pay band and Grade Pay equal to Masters and Mistresses as revised from time to time. It has further been clarified that in case pay of any Language Teacher had already been down graded on the basis of earlier clarification /confusions, the same is required to be rectified by re-fixing pay of such teachers in accordance with

the said clarification. It has also been instructed that in case any recovery had already been effected from the concerned employee, an endeavour be made for refunding the same after adjusting the over payment, if any, made to concerned employee owing to any reasons, whatsoever.”

In view of the order passed in the aforesaid petition, the petitioners are also entitled for the same relief, which has been granted to similarly situated persons.

Accordingly, the present petition is disposed of with a direction to respondent-State to consider the case of the petitioners in view of stand taken by respondent-State in written statement filed in C.W.P. No. 1837 of 2016 within a period of three months from the date of receipt of copy of the order.

In case the petitioners are found entitled for the relief sought in the petition in view of relief granted to other similarly situated persons, the same be granted to them within a period of two months thereafter.

November 30, 2016
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes