102 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CWP No.9497 of 2014 (O&M)**
Date of decision : July 28, 2016

Narinder Kaur .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

2. **CWP No.11211 of 2014 (O&M)**
Date of decision : July 28, 2016

Naresh Kumari .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

3. **CWP No.11645 of 2014 (O&M)**
Date of decision : July 28, 2016

Sneh Lata .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

4. **CWP No.24826 of 2014 (O&M)**
Date of decision : July 28, 2016

Surinder Pal Kaur and others .... **Petitioners**

Versus

State of Punjab and others .... **Respondents**

5. **CWP No.25002 of 2014 (O&M)**
Date of decision : July 28, 2016

Shobha Rani .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Padam Kant Dwivedi, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

Mr. M.K. Dogra, Advocate for respondent No.2.

Mr. Brijeshwar Singh Kanwar, Advocate
for respondent Nos.5 and 6.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of five civil writ petitions bearing CWP Nos.9497, 11211, 11645, 24826 and 25002 of 2014, involving same question of law. In all, 10 petitioners have approached this Court. The facts have been extracted from CWP No.9497 of 2014. The petitioners claim that they are entitled to salary on the revised pay scale from 01.01.2006, in view of the recommendations made by 5th Pay Commission, constituted by the State of Punjab adopted by respondent-Board and consequently, they seek releasing of arrears.

In case of petitioner Narinder Kaur, she was appointed as Craft Teacher with the respondents-Punjab State Social Welfare Advisory Board on 23.01.1975. She retired from service on 31.03.2010. It comes out that the petitioners were initially appointed under the Border Area Project Scheme in the border districts viz. Amritsar, Ferozepur and Gurdaspur, which was being run for the welfare of women and children since 1975. The expenditure of these projects was shared by the Central Social Welfare Board, New Delhi and State Government in the ratio of 2:1.

It also comes out that later on, 65 employees of Border Area Project were taken on permanent deputation in Integrated Child Development Scheme (in short 'the ICDS) of respondent No.2-Social Welfare Advisory Board sanctioned by the State Government, vide order dated 21.08.2009 (Annexure R/2-1).

However, it comes out that three of the petitioners, namely, Naresh Kumari W/o of Late Shri Prem Nath Sharma, posted at Jalalabad as Craft Teacher, Raj Kumari W/o Sh. Ashok Kumar Kukkar, posted at Jalalabad as Craft Teacher and Reshma Rani W/o Late Sh. Harnam Singh, posted at Fazilka as Trained Dai retired in the year 2008 i.e. before the passing of the said order dated 21.08.2009 of taking 65 employees of the aforesaid project on permanent deputation to ICDS. They were taken in ICDS on their existing unrevised pay scale.

It further comes out that later on, a letter dated 07.12.2011 (Annexure P-8) was issued by the Secretary, Punjab State Social Welfare Board addressed to all the CDPOs, ICDS Blocks, whereby they were directed to fix the salary of the employees of Border Area Project, who were merged with ICDS Blocks, as per revised pay scales w.e.f. 01.01.2006, apparently, as per the recommendations of the 5th Pay Commission of the Punjab State.

It further comes out that later on, another letter dated 26.03.2015(Annexure R-2/3) i.e. nearly 3 years and 3 months later, whereby the matter was clarified and it was stated that no Border Area Project employees were merged with State Government ICDS Blocks, they were merely on deputation and that they are not granted the revised pay scales w.e.f. 01.01.2006. As the decision about the implementation of the revised pay scale is to be taken at Government level, the Secretary State Board is not vested with any right to issued any such order. This is the controversy, which has come before this Court.

The factual position is not disputed. The only point surviving for consideration is that as to whether respondent No.2-Board can make a distinction between the employees already working with it and the employees, who were taken on deputation, which amounts to discrepancy in the matter of pay scale.

I find the reply in negative. Once the employees are absorbed by respondent No.2-Board, they are entitled to all the pay scales and other benefits in the Department, in which they have been absorbed and should be placed on the same footing at which the other employees are placed. Respondent No.2-Board cannot make the distinction amongst the employees, who are working with the Board and who are later on absorbed in the Board. Even though, the employees were permanently absorbed on unrevised pay scales, but it does not mean that if later on the report of 5th Pay Commission come for revising the pay scales w.e.f. 01.01.2016, the employees so absorbed will be debarred from the benefits of the said report.

It being so, it is held that the employees, who were permanently absorbed, vide letter dated 21.08.2011 (Annexure R-2/1) shall be entitled to the revised pay scales and other perks on the same footing as the already working employees of respondent No.2-Board w.e.f. 01.01.2006 till their retirement. The respondents are, accordingly, directed to fix the salary of the said absorbed employees w.e.f. 01.01.2006 and release all the necessary retiral benefits in the revised pay scales.

Needless to say that the abovenoted petitioners, namely Naresh Kumari, Raj Kumari W/o Ashok Kumar Kukkar and Reshma Rani W/o Late Shri Harnam Singh, who retired before their absorption in respondent No.2-Board, will not be entitled to such benefits. The writ petitions qua Naresh Kumari, Raj Kumari W/o Ashok Kumar Kukkar and Reshma Rani are dismissed and qua remaining petitioners, the writ petitions are allowed to the abovenoted extent.

The petitioners shall also be entitled to interest @ 9% per annum on the arrears. The needful be done within a period of 3 months from the date of receipt of copy of this order.

(KULDIP SINGH)
JUDGE

July 28, 2016
sarita

Whether speaking / reasoned Yes
Whether Reportable: Yes