

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-2076-2014 (O&M)

Date of Decision: September 26, 2016

Prem Singh and others

.....Appellants

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

1.	Whether speaking/reasoned ?	Yes/No
2.	Whether reportable ?	Yes/No
3.	Whether Reporters of local papers may be allowed to see the judgment?	Yes/No
4.	To be referred to the Reporters or not?	Yes/No
5.	Whether the judgment should be reported in the Digest?	Yes/No

Present: Mr.Ramesh Chander Sharma, Advocate
for the appellants.

Mr.Rajesh Bhardwaj, Addl.AG., Punjab.

.....

SURYA KANT, J.

[1] The question that arose for the consideration of learned Single Judge was whether the appellants are entitled to 2/3 advance increments in lieu of higher qualifications acquired by them while in service?

[2] Appellants served the Education Department as Masters/Teachers in different subjects and have since retired. As they acquired higher qualifications while in service, the instant writ petition was filed based upon Punjab Government instructions dated 23.07.1957, which have unfortunately generated endless litigation in this Court as also before Apex Court. The appellants also rely upon another circular dated 01.09.1960

(Annexure P2), whereby State Government accorded permission to grant 2/3 increments to the Masters/Teachers working in the Education Department, who had improved their educational qualifications. Reference was made to yet another set of Instructions (Annexure P3) governing the subject.

[3] Learned Single Judge though initially allowed the appellants' writ petition but pursuant to Review Application No.340 of 2013 filed by State of Punjab, the order was recalled and the writ petition has been dismissed giving rise to this Letters Patent Appeal.

[4] It is not in dispute that appellants acquired higher qualifications of MA/MSc after 19.02.1979, on which date the Punjab Government had issued a new set of Instructions (Annexure P4) whereby on reconsideration of the whole matter it was decided that henceforth teachers of the Education Department shall not become entitled to be placed in the higher scale of pay in terms of para 3 of Government Instructions dated 23.07.1957 (Annexure P1) automatically on their improving/acquiring higher qualifications during the course of their service. The Instructions further provided that the Teachers/Masters who have improved their qualifications before the date of issue of these instructions may be allowed benefit of higher scale of pay but such benefit shall not be allowed to those 'who are appointed or improved their qualifications after issue of this letter.'

[5] Once the above-stated new set of Instructions were issued, all previous Instructions on the subject are deemed to have been modified/reversed/superseded. The law is well settled that in the case of executive Instructions, it is not necessary that previous Instructions should be formally superseded/repealed, as is required in a case of Statute or Statutory

Rules. Once a new set of Instructions is notified, any contrary Instructions issued prior thereto, are deemed to have been superseded. The resultant effect in law is that latter Instructions dated 01.09.1960 (Annexure P2) relied upon by the appellants also stand superseded.

[6] Such a view has already been taken by one of us (Surya Kant, J.) in CWP No.4600 of 1998 decided on 07.08.2008. Even before that, a Division Bench of this Court dealt with new set of Instructions dated 19.02.1979 in LPA No.374 of 1994 (**State of Punjab and others vs Joga Singh and others**) decided on 20.02.1996 and categorically held that the writ petitioners who joined service after 19th February, 1979 or who improved their qualifications after that date “shall not be entitled to the benefit of higher pay scales automatically and they shall be entitled to the benefit of higher pay scales only in accordance with the new policy contained in the Circular, dated 19th February, 1979.”

[7] In the light of above discussion and following the cited case law, we do not find any merit in this appeal.

[8] Dismissed.

**(SURYA KANT)
JUDGE**

September 26, 2016
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**(SUDIP AHLUWALIA)
JUDGE**