

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

LPA No. 1879 of 2015

DATE OF DECISION : 05.02.2016

Jagdish Raj Arora

.... APPELLANT

Versus

State of Punjab and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. G.S. Bal, Senior Advocate, with
Mr. A.D.S. Bal, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J. (Oral)

The appellant is a retired teacher of a private recognized aided school. His claim for medical reimbursement was rejected vide order dated 28.08.2014 (Annexure P-2) passed by the District Education Officer (Secondary Education), Gurdaspur (respondent No.4 herein) while relying upon judgment dated 26.07.2011 passed by this Court in LPA No. 739 of 2011 (State of Punjab and others Versus Kapil Paul and others), wherein it has been held that employees of aided schools are not entitled to get benefit of medical reimbursement. The appellant challenged the said order by filing CWP No. 23928 of 2015, which has been dismissed by the learned Single Judge vide order dated 06.11.2015, while observing as under :-

“Learned senior counsel for the petitioner contends that as per instructions dated 31.03.1999 (Annexure P-3), sanction was accorded for parity in pay scales and Dearness Allowance (House Rent, Medical Allowance) of the employees of the private recognised Aided Schools with that of Government employees). This aspect has not been considered by the Division Bench of this Court while rendering decision dated 26.07.2011. It is further submitted that said decision is an ex parte one. Petitioner therein was not heard before passing of order dated 26.07.2011. Thus, true facts were not brought to the notice of the Court.

Contentions raised by the learned counsel are untenable and unacceptable. It is to be noted that instructions dated 31.03.1999 stand clarified by the Department of Finance itself on 09.08.2005, which finds mention in judgment dated 30.09.2010 of the Single Bench in CWP No. 17112 of 2005. It has been held by the Division Bench as hereunder:-

“Obviously, the teachers of the privately aided schools cannot seek parity with the teachers working in government colleges in the matter of incentives and other allowances including medical reimbursement as claimed by the petitioner-respondent Nos. 1 and

2. Moreover, it has remained uncontroverted that medical reimbursement is made under the provisions of the 1940 Rules which have no application to the employees working in the privately aided schools. Even the instructions dated 31.3.1999 (P-3), cannot be applied to the present case because there is no whisper in the said instructions about 'medical reimbursement'. Therefore, on principles as well as on precedents, we are constrained to set aside the judgment rendered by the learned Single Judge and hold that the petitioner-respondent Nos. 1 and 2 cannot claim reimbursement of the medical bills in question."

In view of conclusive pronouncement by the Division Bench of this Court on the issue in hand, there is no ground for interference by this Court.

Writ petition is, accordingly, dismissed."

Learned counsel for the appellant argued that the learned Single Judge has erred in law while relying upon the aforesaid decision dated 26.07.2011 in LPA No. 739 of 2011. According to the learned counsel, the said decision was an ex-parte decision and it cannot be taken as a precedent.

We do not agree with this contention of learned counsel for the appellant. A decision of the Division Bench of this court in the aforesaid LPA No. 739 of 2011 is binding on the learned Single Judge as well as on this court. The second contention raised by learned counsel for the appellant that the instructions dated 31.03.1999, on which the appellant is relying upon, were not discussed in the aforesaid decision passed by the Division Bench in LPA No. 739 of 2011 has not been accepted as it has also been found to be factually wrong by the learned Single Judge. Thus, we do not find any reason to interfere with the impugned order passed by the learned Single Judge.

Dismissed.

**(SATISH KUMAR MITTAL)
JUDGE**

February 05, 2016
ndj

**(HARINDER SINGH SIDHU)
JUDGE**