IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 263

Civil Writ Petition No.2407 of 2017 (O & M)
Date of Decision: *August 08, 2017*

Kasturi Lal Saini & others

..... PETITIONERS

VERSUS

State of Punjab & others

..... RESPONDENTS

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Arun Abrol, Advocate, for the petitioners.

Ms. Sudeepti Sharma, Additional Advocate General, Punjab, with Ms. Akanksha, Assistant Advocate General, Punjab.

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Jaspal Singh, J

1. Through instant writ petition preferred under Article 226/227 of the Constitution of India, petitioners have sought for issuance of a writ in the nature of Mandamus, directing the respondents to grant the benefit of Leave Encashment to petitioners as granted to their counterparts working in the Government Schools in view of judgments (Annexure P-10 & 11) and Government instructions, and further that, amount of Leave Encashment be paid to petitioners alongwith interest @ 9% per annum.

2. Petitioners have superannuated from schools of respondent Nos.3 to 24, which are privately managed recognized schools, getting aid from the State in terms of Grant-in-Aid Rules adopted by the State of Punjab w.e.f. December 01, 1967. 95% of salary of the staff working in these

schools is being borne by the State Government. The Managing Committees of the Schools contributes 5% of the pay. Vide Notification No. 16/3/92-2 Edu.3/7472 dated March 31, 1999, Government of Punjab has brought parity in the pay scales, pension, dearness allowance and other allowances of working employees and retired employees of privately managed recognized aided schools in the State of Punjab at par with their counterparts working/retired in the Punjab Government Schools. Petitioners have alleged that since employees retired/working in the Government schools are getting Leave Encashment, it is incumbent upon the Department(s) to release Leave Encashment to the employees retired/working in the privately managed recognized schools. However, despite repeated requests/representations and Government instructions, petitioners have been denied the benefit of Leave Encashment.

3. The question for determination in the instant writ petition is with regard to grant of Leave Encashment from a privately managed recognized school(s) run by the respondents – Management. The said issue is no longer *res integra* as it has been has been dealt with by this Court vide judgment dated March 11, 2016 in **Civil Writ Petition No.23954 of 2013** titled **Kamal Bhardwaj & others vs. State of Punjab & others**, wherein while disposing of a bunch of three writ petitions, it has been laid down as under:-

> "2. The only issue involved in the present set of cases is regarding entitlement to the monetary benefit of leave encashment from a privately managed Government aided school run by the respondent-Management.
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> 3. It is the settled position in law that leave encashment liability is on the Management and is not an obligation to be shouldered by the State, which provides the grant-in-aid for certain purposes and concessions under the scheme. The legal position is expressed in

the Division Bench judgment delivered in LPA No.519 of 2011 titled 'Anglo Sanskrit High School Khanna Trust and Management Society (Regd.), Khanna & another Vs. State of Punjab & others' decided on 5th April, 2011 which covers the present cases.

4. As a result, all the writ petitions are allowed as against respondents No.29 & 30 in CWP No.23954 of 2013; respondents No.36 & 37 in CWP No.24890 of 2013; respondent No.12 in CWP No.24890 of 2013 and respondent No.11 in CWP No.7780 of 2014 corresponding to the petitioners therein, who retired from services of a few of the Schools arrayed as respondents. The remaining private respondents [which are total 28 in number] have been served with the summons, but have chosen not to appear to contest the proceedings. They are accordingly proceeded against ex parte. No further effort is required to be made to bring them to Court. Besides, the issue involved is no longer res integra.

4. Accordingly, all the writ petitions are allowed and a writ of mandamus is issued to the respective respondent-Managements to disburse the amount of leave encashment to each of their employees, the petitioners; within two months from the date of receipt of certified copy of this order failing which the amount will earn interest at the rate of 6% per annum from the date the default was committed by withholding money towards leave encashment.

5. The respective Managements shall be at liberty to seek reimbursement of monetary value of leave encashment not being permissible under the grant-in-aid scheme, keeping in view the stand of the State in the present set of cases in consonance with para.3 of the written statement filed by the State.

4. Disposed of in the aforesaid terms as in the case of **Kamal Bhardwaj (supra)**.

(Jaspal Singh)
Judge

August 08, 2017
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No