

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

CWP-10770-1995

Date of decision: - 13.11.2018

Jagjit Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Nitin Rathee, Advocate
for Mr. Anil Rathee, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

Petitioner has filed the present writ petition for grant of two advance increments for obtaining higher qualification as per the instructions issued by the State of Punjab dated 23.07.1957 which remained in operation till the same were withdrawn on 19.02.1979.

The case which has been set up by the petitioner is that the petitioner was appointed as Tabla Teacher in the Education Department of Punjab on 04.02.1975. On the said post, he was subsequently regularized on 21.07.1977. While working as Tabla Teacher the petitioner improved his qualification and got the degree of “Sangeet Bhaskar” from Pracheen Kala Kendra, Chandigarh in the year 1978. Petitioner is

claiming that the said degree of Sangeet Bhaskar from Pracheen Kala Kendra, Chandigarh is equivalent to M.A. in Music, which is a higher qualification than the qualification required for the said post of Tabla Teacher. Qualification of Tabla Teacher is Matric with Visharad in Tabala from Pracheen Kala Kendra. The request of the petitioner for the grant of two advance increments was not being accepted by the respondents-State and ultimately the petitioner filed a CWP No.17942 of 1994 seeking the said relief. The said writ petition was disposed of on 13.12.1994 with a direction to State of Punjab for deciding the representation filed by the petitioner seeking the said relief.

In pursuance to the direction given by this Court dated 13.12.1994 the respondents-State passed an order dated 28.04.1995 denying the relief to the petitioner. The reason for denial was that there is no proof that degree of “Sangeet Bhakar” is equivalent to the M.A. and further that deegree of “Sangeet Bhaskar” is not recognized by Panjab University even. Hence, the said degree cannot be considered as a higher qualification for the grant of two advance increments to the petitioner. The said order dated 28.04.1995 is under challenge in the present writ petition.

The State in reply to the writ petition has again reiterated that the degree of “Sangeet Bhaskar” from Pracheen Kala Kendra, Chandigarh is not recognized by the Panjab University and therefore, the same cannot be treated as a higher qualification for the grant of two advance increments.

Petitioner in support of his claim that the degree of “Sangeet

Bhaskar” from Pracheen Kala Kendra, Chandigarh is equivalent to M.A., has annexed Annexure P-2, which is an advertisement, issued by the Punjab Public Service Commission, Patiala wherein the posts of Lecturer in Music were advertised. In the Column of essential qualification for appointment as a Lecturer in Music, a candidate should either have MA in Music or any equivalent qualification and equivalent qualifications were mentioned in the advertisement itself. At item No.6, degree of Sangeet Bhaskar, Pracheen Kala Kendra, Chandigarh has been described as equivalent to M.A. Music. These averments have been made by the petitioner in paragraph four of the writ petition.

In reply to paragraph 4 of the writ petition, the State has not denied the issue in advertisement (Annexure P-2), but has come out with the reasoning that for appointment as a Lecturer in Music, the degree of “Sangeet Bhaskar” from Pracheen Kala Kendra, Chandigarh can be treated as equivalent to M.A., but the said degree cannot be treated as higher qualification for the grant of two advance increments. The State of Punjab had issued instructions in 1957 for the grant of two advance increments to the teachers on obtaining the higher qualification so as to encourage the officials already working to improve their qualifications and knowledge. From Annexure P-2, which is an advertisement, which has been issued by the Punjab Public Service Commission, Patiala, it is clear that the degree possessed by the petitioner of “Sangeet Bhaskar” from Pracheen Kala Kendra, Chandigarh has been treated equivalent to Post Graduate Degree of M.A. Music. Once the State has treated the said degree equivalent to the Post Graduate degree in Music and considered

the candidates having the degree of “Sangeet Bhaskar” from Pracheen Kala Kendra, Chandigarh eligible to be appointed as a Lecturer in Music, then the reason given by the State to deny the benefit to the petitioner that the degree is not recognized by the Panjab University or the State of Punjab or the same is not equivalent and cannot be treated as higher qualification cannot be sustained. If a person with the degree of “Sangeet Bhaskar” can be appointed as a Lecturer in Music by treating the same to be equivalent to M.A. in Music, then there is no reason as to why the said degree cannot be taken as a higher qualification for the grant of two advance increments.

In view of the above, impugned order dated 28.04.1995 (Annexure P-11) passed by the respondents-State is set aside.

Counsel for the petitioner has informed that the petitioner has already retired from service. Further it is a matter of record that the petitioner is claiming the two advance increments w.e.f. 04.03.1978 when the petitioner got the degree of “Sangeet Bhaskar”. It was only in the year 1994 when the petitioner choose to approach this Court by way of CWP No.17942 of 1994. Under these circumstances, the respondents-State are directed to grant the petitioner two increments from the date he obtained the higher qualification i.e. 04.03.1978 and re-fix his salary. The said fixation will be done notionally and the petitioner will not be entitled for actual arrears from the year 1978 as he claimed the said benefit after a period of approximately 15 years. However, the pension of the petitioner will also be revised notionally.

Present writ petition stands allowed in the above terms.

The above-said exercise shall be done within a period of three months from the date of receipt of certified copy of this order.

November 13, 2018
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes