

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 26.07.2018****CWP No.11238 of 2015**

Rita Rani & others

...Petitioners

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. B.K.Bagri, Advocate, for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

This matter is squarely covered by the decision of this Court in CWP No.22066 of 2012 titled 'Ganga Ram Punia & others Vs. State of Haryana & others' and other connected matters decided on 17.08.2015, where the issue; as to whether the State was right in denying one grade increment on promotion to the post of Head Teacher, which the petitioners assert they are entitled to under Rule 4.4 (a)(i) and 4.13 of the Civil Services Rules, Volume I, Part I, as the post of Head Teacher carries higher responsibilities and duties. The legal position has been elaborately explained in the judgment and order of the learned single judge. The Court specifically answered the question concluding that the petitioners therein, in the same position as the present petitioners, are not entitled to grant of additional increment under Rule 4.4(a)(i) read with Rule 4.13 of the CSR on their promotion to the post of Head Teacher as they were drawing the functional

pay scale of the promotional post of Head Teacher prior to their date of promotion on the strength of grant of ACP pay scales. While quoting Rule 4.4, the Hon'ble Bench drew the factual position and underlined the crux in Para.21 of the judgment, which reads as follows:

“21-A.xx xx xx

... Rule 4.4 reads as under:

"4.4. The initial substantive pay of a Government employee who is appointed substantively to a post on a time-scale of pay is regulated as follows:-

(a) If he holds a lien on a permanent post, other than a tenure post, or would hold lien on such a post, had his, lien not been suspended-

(i) when appointment to the new post involves the assumption of duties or responsibilities of greater importance (as interpreted for the purposes of rule 4.13) than these attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his, substantive pay in respect of the old post;

(ii) when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage, the stage next below that pay plus personal pay equal to the difference, and in either case will continue to draw that pay until such time as he would have received an increment in the time scale of the old post or for the period after which an increment is earned in the timescale of the new post, whichever is less. But if the minimum of the time-scale of the new post is higher than his substantive pay in respect of the old post he will draw that minimum as initial pay.

(iii) when appointment to the new post is made on his own request under rule 3.17 (a) and maximum pay in the time-scale of that post is less than his substantive pay in respect of the old post, he will draw that maximum as initial pay."

The above rule says that when appointment to the new post involves the assumption of duties or responsibilities of greater importance than those attaching to such permanent post, the incumbent will draw as initial pay the stage of time scale next above his substantive pay in respect of the old post meaning thereby that the promotion which involves responsibilities of greater importance then in that case the incumbent will draw as initial pay the stage of time-scale next above his substantive pay in respect of the old post. That means he will be entitled to one increment in the old post. But in the present case, the respondents are already drawing the pay scale of the post of Master i.e. higher post. As such, where is the question of granting them one increment further now? Under rule 4.4 it could have been possible to grant them fixation if they were continuing in the old scale of JBT teachers and on their promotion to the post of Master, then certainly they would have been entitled to fixation of pay giving them the initial-pay the stage of time scale next above their substantive pay in respect of the old post."

In view of the above legal and factual position identical to the prayers in this petition, there is no merit in this petition and the same is ordered to stand dismissed in terms of the decision in Ganga Ram Punia case.

26.07.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>