

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

Sr. No.209

**CIVIL WRIT PETITION No.15492 of 2014
DECIDED ON: September 07, 2018**

KULWINDER KAUR

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amit Chopra, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

Through the instant civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari seeking quashing of order dated 22.10.2013 (P-12) vide which the claim of the petitioner for grant of pay scale of Punjabi Teacher w.e.f. the date of her services were taken over by the State of Punjab as well as her claim for counting the services rendered by her in the aided school before taking over the services of her by the State Government for the purpose of calculating her pension and other pensionary benefits has been rejected as well as for issuance of a writ of mandamus directing the respondents to grant her pay scale of Punjabi Teacher w.e.f. 12.01.1987 i.e. the date on which her services were taken over as Punjabi Teacher WITH FURTHER to count the services rendered by her previously in the aided school along with all consequential benefits.

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2. Reiterated the facts contained in the petition, learned counsel for the petitioner has contended that petitioner was initially appointed as Punjabi Teacher in aided school i.e. Public High School, Sariana, District Hoshiarpur on 15.04.1985 against sanction post of Punjabi Teacher, an aided post. At the time, she was possessing the qualification of J.B.T. and Giani. Subsequently, it was decided by the State of Punjab to take over aforesaid school i.e. Public High School, Sariana, District Hoshiarpur along with its assets and liabilities. Accordingly, the services of all the staff teaching as well as non-teaching were also taken over by the State Government. Prior to taking over the school by the State Government, petitioner was working as a Punjabi Teacher and even thereafter, she continued to work as a Punjabi Teacher on the post of C&V Punjabi Teacher. This fact is also evident from the order dated 15.01.1987 (P-2). The petitioner continued representing the respondents that she is working as a Punjabi Teacher and as such, the pay scale of Punjabi Teacher be released to her. Ultimately, orders dated 15.07.1992 (P-3) were issued by the Director of Public Instructions, Punjab, Chandigarh deciding to take over her services as a Punjabi Teacher instead of JBT Teacher on the same terms and conditions. It was only thereafter the issuance of the order dated 15.07.1992 (P-3), the pay scale of Punjabi Teacher was released to her but with prospective effect. Thus, the order dated 22.10.2013 (P-12), whereby the relief claimed through the instant petition has been declined, is not sustainable in the eyes of law and is liable to be quashed. Consequently, petitioner deserves the benefits claimed through the instant petition.

3. On the other hand, learned State counsel has argued with vehemence that the petitioner did not approach this Court with clean hands

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and has suppressed the material facts. Not only this, even the facts unfolded by the petitioner in the petition which have been reiterated during the course of arguments also are nothing but mis-statement of facts. In fact, when Public High School, Sariana, District Hoshiarpur, which was a privately managed Government aided school, was taken over by the State Government on 12.01.1987 along with the staff working in the said school, the petitioner was working as a J.B.T. Teacher against an unaided post and accordingly, she was taken and appointed as a J.B.T. Teacher w.e.f. 12.01.1987 on six month basis as a fresh entrant. Subsequently, her services were taken over as a Classical and Vernacular Teacher in the pay scale of Rs.1640-2925 w.e.f. 27.03.1992 and thereafter, her services were regularized as a Punjabi Teacher w.e.f. 29.04.1994. At the time, the privately managed Government aided school was taken over by the State Government, petitioner was working as a J.B.T. Teacher. Though, she also possessed the qualification of Giani in addition to Matriculation. She herself accepted the offer to the post of J.B.T. Teacher and now after a belated stage i.e. after her retirement, she has preferred the instant petition by raising the claim as referred to above. The claim of the petitioner with regard to counting of her service rendered by her in privately managed Government aided school towards qualifying service as well as scale of the Punjabi Teacher as claimed by the petitioner, have rightly been declined vide order dated 22.10.2013 (P-12). Since, the aforesaid order dated 22.10.2013 (P-12) is absolutely in consonance with real facts as well as settled canons of law and it requires no interference by this Court.

4. After bestowing due consideration to the rival submissions made by learned counsel for the parties and scanning the various documents

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available on file, this Court does not find any legal and factual substance in the submissions made by learned counsel for the petitioner. Rather is of the considered view that relief claimed through the instant petition has rightly been declined vide order dated 22.10.2013 (P-12) for the reasons referred to hereinafter.

5. From the pleadings of the parties as well as contentions raised during the course of arguments, the claim raised by the petitioner can be said to be twin fold i.e. (i) that her initial appointment in the affairs of the State of Punjab should be treated to have been made against the post of Punjabi Teacher instead of J.B.T. Teacher and she should be paid accordingly scale of Punjabi Teacher and (ii) that services rendered by her previously in privately managed Government aided school should be treated as qualifying service for computing the retiral benefits.

6. As regards the first claim, it would be pertinent to mention that the Public High School, Sariana, District Hoshiarpur, a privately managed Government aided school was undisputably taken over by the State Government on 12.01.1987 along with staff working therein. At that time, petitioner was working as a J.B.T. Teacher, that too, against an un-aided post. The claim made by the petitioner in this regard as has been discussed by the foregoing paragraphs is absolutely untenable. She was never appointed as a Punjabi Teacher either in the privately managed Government aided school or at the time, the said school was taken over by the State Government on 12.01.1987. In fact, she was working as a J.B.T. Teacher and was allowed to work as such on six month basis as a fresh entrant. However, subsequently, her services were taken over as a Classical and Vernacular Teacher w.e.f. 27.03.1992, which were subsequently regularized

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w.e.f. 29.04.1994. She cannot claim the scale of a Punjabi Teacher for the simple reason that she has been possessing a qualification of Giani, whatever was due and to which the petitioner was entitled, she has already been granted by the respondents. Thus, relief in this regard has rightly been declined by the respondents vide impugned order dated 22.10.2013 (P-12).

7. As far as second limb of the claim set up in the instant petition is concerned, the case of the petitioner was considered in the light of the judgment rendered in case *Sukhdev Singh & ors. Vs. State of Punjab & ors.* decided on 10.03.2010 bearing CWP No.14210 of 1991 which dealt with counting of previous service rendered in the Government aided schools towards qualifying service and other services. Since, petitioner was not appointed as a J.B.T, Teacher in the above referred privately managed Government aided school against a sanctioned/aided post, she has rightly been declined the said benefit. Thus, taking the case of the petitioner from any of the angles, this Court does not find any merit in the instant petition. Rather this Court is of the considered view that impugned order dated 22.10.2013 (P-12) is absolutely in consonance with the settled proposition of law as well as facts and circumstances and thus, does not call for any interference of this Court.

8. Accordingly, it stands dismissed. However, no order as to costs.

September 07, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes
Yes/No**