

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

(1)

**E.A. No.4 of 2012 in
CWP No.1468 of 1994.**

Date of Decision: 26.02.2018.

Mahesh Chander

... Applicant/Decree Holder

Versus

State of Punjab and another

... Respondents

(2)

**E.A. No.5 of 2012 in
CWP No.1468 of 1994.**

Ravinder Kaur

... Applicant/Decree Holder

Versus

State of Punjab and another

... Respondents

(3)

**E.A. No.6 of 2012 in
CWP No.1468 of 1994.**

Gurdip Singh

... Applicant/Decree Holder

Versus

State of Punjab and another

... Respondents

(4)

**E.A. No.7 of 2012 in
CWP No.1468 of 1994.**

Bhagirath Ram

... Applicant/Decree Holder

Versus

State of Punjab and another

... Respondents

(5)

**E.A. No.8 of 2012 in
CWP No.1468 of 1994.**

Sukhwant Singh

... Applicant/Decree Holder

Versus

E.A. No.4 of 2012		2
State of Punjab and another	...	Respondents
(6)	E.A. No.9 of 2012 in CWP No.1468 of 1994.	
Jagdev Singh	...	Applicant/Decree Holder
Versus		
State of Punjab and another	...	Respondents
(7)	E.A. No.10 of 2012 in CWP No.1468 of 1994.	
Barjinder Kaur	...	Applicant/Decree Holder
Versus		
State of Punjab and another	...	Respondents
(8)	E.A. No.32 of 2013 in CWP No.1468 of 1994.	
Gupreet Pal Singh and others	...	Applicant/Decree Holders
Versus		
State of Punjab and another	...	Respondents
(9)	E.A. No.1 of 2014 in CWP No.1468 of 1994.	
Gupreet Pal Singh and others	...	Applicant/Decree Holders
Versus		
State of Punjab and another	...	Respondents
(10)	E.A. No.2 of 2014 in CWP No.1468 of 1994.	
Gupreet Pal Singh and others	...	Applicant/Decree Holders
Versus		
State of Punjab and another	...	Respondents

(11)

**E.A. No.3 of 2014 in
CWP No.1468 of 1994.**

Gupreet Pal Singh and others

... Applicant/Decree Holders

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Harinder Sharma, Advocate,
for the petitioner(s) in all the applications.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned eleven execution applications as common judgment dated 02.02.1995 passed in CWP No.1468 of 1994 titled as “Gurpreetpal Singh vs. State of Punjab and others” is sought to be executed in all the execution applications.

It is contended that on 02.02.1995, the writ petition filed by the applicant-Decree-Holders was allowed by this Court by holding as under:-

“This order shall dispose of CWP Nos. 13543 and 12904 both of 1993, CWP Nos. 1072, 1468, 4552 and 11934 to 11937 all of 1994. The facts being common in all the writ petitions, the general facts applicable to the petitioners are stated as under:-

In these writ petitions, the petitioners have prayed for higher grade on the basis of higher qualifications in

terms of the instructions dated 23.07.1957, Annexure P-1 These writ petitions have been filed seeking quashing of instructions dated 19.02.1979, Annexure P-4 and subsequent instructions dated 20.09.1979, Annexure P-5.

*The point involved in these writ petitions is squarely covered by various judgments, out of which reference is being made to two of them; CWP No.11995 of 1989. against the judgment, Letters Patent Appeal was filed which also stands dismissed. This judgment is based upon a Supreme Court judgment reported **Chaman Lal and others versus State of Haryana AIR 1987 SC 1621**, wherein similar instructions have been quashed. The second judgment is a judgment of a Division Bench of this Court in CWP No.15630 of 1993 decided on 14.09.1994.*

We respectfully follow the above said decisions and accept these writ petitions. The impugned instructions, Annexure P-4 and P-5 are quashed and the respondents are directed to grant higher grade on acquisition of higher qualification as per the entitlement of the petitioners. The arrears are restricted to a period of three years and two months. No costs.”

It has been further contended by the learned counsel for the applicant/decreed holders that against the judgment dated 02.02.1995, the state of Punjab went in appeal before Hon'ble the Supreme Court. However, the appeal was also dismissed vide judgment dated 30.04.2003 passed in Civil Appeal Nos. 8295-98 of 1995. (Annexure E-2). Despite that, the judgment dated 02.02.1995 has not been implemented by the respondent/authorities so far. Hence, the present execution applications.

On the other hand, the learned State counsel contends that while delivering judgment dated 02.02.1995 in CWP No.1468 of 1994, a Division Bench of this Court relied upon CWP No.11995 of 1989. However, the State of Punjab preferred LPA No.374 of 1994 against CWP No.11995 of 1989. While deciding the LPA, a Division Bench was pleased to hold the writ petitioners who joined service after 19.02.1979 shall not be entitled to the benefit of higher grade automatically and they shall be entitled to the benefit of higher grade only in accordance with the new policy contained in the Circular dated 19.02.1979.

It is further contended that against the judgment dated 02.02.1995, the State of Punjab filed SLP. Hon'ble the apex Court while dismissing the SLP on 30.04.2003, held that the issues involved for determination stood already finally and firmly settled by the decisions of the Supreme Court reported in **Wazir Singh vs. State of**

Haryana JT 1995(7) SC 404 and in other cases. In **Wazir Singh's**

case (supra), Hon'ble the Supreme Court held that the teachers who have acquired BT/B.Ed qualification prior to 09.03.1990 would get the benefit of para 2 of the Punjab Government letter dated 23.07.1957 and those who have acquired BT/B.Ed qualification subsequently are governed by the changed policy of Haryana Government dated 09.03.1990. The cut off date for awarding qualifications based pay scales was upheld. It has been held that the teachers are not entitled to the higher pay scales on the basis of their improved qualifications after the cut off date from which the State Government discontinued its policy for awarding the qualifications based pay scales. It is further contended that the State of Punjab has enacted the Punjab Pay Scales of Teachers Act, 2004 whereby such arrangement to grant of higher pay scales on the basis of higher qualification was discontinued even in case of those teachers who were appointed prior to 19.02.1979. The said Act has been upheld by a Division Bench of this Court in CWP No.14634 of 2009. Even the similar claim of advance increments raised by other persons has been stayed by a LPA Bench in LPA No.199 of 2014 (O&M).

In this background, it is contended that the applicant/decreed holders are not entitled to grant of advance increments.

Heard.

It is to be noticed that the issue whether the applicant/decreed holders are entitled to advance increments on

acquiring post graduation qualification, stands decided by this Court in CWP No.1468 of 1994 decided on 02.02.1995. Against that decision, the State of Punjab preferred Civil Appeal Nos. 8295-98 of 1995 which were dismissed by Hon'ble the Supreme Court vide common order dated 30.04.2003. Now, at this stage, the contention of the learned State counsel that the applicant/decreed holders are not entitled to the advance increments as the cut off date was upheld in the relied upon cases such as **Wazir Singh's case (supra)**, cannot be accepted. This Court is not an appellate Court. This Court being an executing Court has to ensure implementation of the judgment passed by this Court.

Consequently, all the execution applications are allowed. The respondents are directed to implement the judgment dated 02.02.1995 passed in CWP No.1468 of 1994 within a period of three months from the date of receipt of certified copy of the judgment.

26.02.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No