

CWP No.2219 of 2016

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

**CWP No.2219 of 2016
Date of decision:29.11.2019**

Jasbir Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Om Pal Sharma, Advocate
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

SUVIR SEHGAL J.

The petitioner has sought a writ in the nature of mandamus for directing the respondents to grant her the revised pay scale of Rs.4550-7220 w.e.f. 01.01.1996 instead of pay scale of Rs.4020-6200. She has further sought a writ in the nature of certiorari quashing of the letter dated 20.01.2015 (Annexure P-6) vide which her claim has been declined by respondent No.2.

In brief, the petitioner had joined the Department of Education Punjab on 04.03.1977 as Junior Librarian. Later on, the post of Junior Librarian was re-designated as Assistant Librarian which was further re-designated as Librarian by the Govt. vide notification dated 18.10.1979. The posts of Librarian and Assistant Librarian were given the same pay scale. Vide order dated 09.08.2000, the petitioner was appointed as Assistant Librarian through transfer to Govt. Polytechnic for Women, Ropar which

was running under the Department of Technical Education in the pay scale of Rs.4020-6200. On the recommendation of the 4th Pay Commission, the pay scale of School Librarian/ Assistant Librarian was revised from Rs.4020-6200 to Rs.4550-7220 w.e.f 01.01.1996 and the qualifications were also raised from Matric to 10+2 with a two year diploma in Library Science instead of one year diploma. She represented to the Department of Technical Education for grant of higher pay scale which was rejected vide impugned letter dated 20.01.2015 (Annexure P-6) whereby she was informed that pay scale given by Department of Education cannot be given to her and only her pay can be protected.

Upon notice being issued, the Department of Technical Education (respondents No.1 to 3) and Department of Education (respondents No.4 to 6) filed separate replies. Respondents No.1 to 3 have resisted the claim of the petitioner on the ground that her appointment by virtue of letter dated 09.08.2000 (Annexure P-1) was a fresh appointment and she was not entitled to any benefit of higher pay scale granted to her earlier.

Counsel for the parties have been heard and record has been perused with their able assistance.

Vide order dated 09.08.2000 (Annexure P-1), the petitioner was appointed as Assistant Librarian in the Department of Technical Education. This was a fresh appointment. This is clear from the fact that appointment was followed by a period of probation of one year before being confirmed on the post. The petitioner had challenged the probation period by filing a

civil suit which was dismissed by the Civil Judge (Junior Division), Patiala on 20.03.2015.

Moreover, the appointment order dated 09.08.2000 (Annexure P-1) contained the certain conditions. Condition Nos.1 and 3 thereof are reproduced as under:-

*“1. **Seniority**: You will be given seniority from the date of joining this department and no benefit of your earlier service will be given to you.”*

x x x x x x x

*“3 **Basic Pay** : You will be given pay scale of Rs.4020-6200 alongwith the allowances as approved by the Government from time to time and your pay will be fixed as per the rules.”*

In the face of these conditions, it is apparent that the petitioner cannot claim the higher pay scale upon joining the Department of Technical Education. Not only this, the petitioner has not challenged these conditions mentioned in the appointment letter, nor can she be permitted to do so at this belated stage.

On the other hand, the Department of Education (respondents No.4 to 6) in their response, have submitted that in compliance of the judgment dated 28.05.2012 passed by this Court in **CWP No.16875 of 20017 titled as 'Punjab School Librarians Union Vs. State of Punjab and others’**, the higher pay scale of Rs.4550-7220 has been granted to the petitioner w.e.f. 01.01.1996 after obtaining the concurrence of the

Department of Finance, Punjab. It has been further submitted that after recording the necessary entries in the service record of the petitioner, her case has been sent to respondent No.3 for further necessary action. In view of this position, the petitioner is entitled to the higher pay scale from the Department of Education w.e.f. 01.01.1996 till her relieving from the said department.

Accordingly, the writ petition is disposed of with a direction to the respondents that the petitioner is entitled to higher pay scale of Rs.4550-7220 w.e.f. 01.01.1996 till the time she was relieved from the Department of Education in August 2000 and she be paid the difference of arrears for the said period within a period of three months from the date of receipt of certified copy of this order.

Disposed of.

(SUVIR SEHGAL)
JUDGE

November 29, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No