

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

CWP-4540-2013 (O&M)
Date of decision : 06.05.2019

Mohinderjit Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition, *inter alia*, is for issuance of a writ of Mandamus directing the respondents to allow the petitioner to change her date of option from 01.01.1986 to 01.01.1988 as the benefit of JST Scale has been withdrawn from her w.e.f. 01.01.1986 and to count the entire service rendered by her for the purpose of granting proficiency step-up.

It is contended that the petitioner was appointed as JBT Teacher on ad hoc basis on 24.04.1969. Her services were regularized w.e.f. 01.04.1977. She retired as such on 30.09.2009. During her service on ad hoc basis, she attained Bachelor's Degree on 09.07.1973 after completing BA-II and BA-III and therefore, became entitled to higher pay

scale in view of circular dated 23.07.1957. It is further contended that vide

circular dated 19.02.1979, all the teachers who had acquired higher qualification prior to 19.02.1979 were held entitled to higher pay scale in accordance with the qualification. The said circular was further clarified vide memo dated 20.09.1979 (Anneuxre P-2), wherein, it was referred that the teachers placed in higher scale can only be regularly adjusted when the corresponding post in higher scale becomes available in the cadre.

The grouse of the petitioner is that the benefit of higher pay scale granted to her w.e.f. 09.07.1973, the date on which she attained higher qualification, was withdrawn after her retirement in view of instructions dated 20.09.1979 and it was held that as the petitioner's services were regularized w.e.f. 01.04.1977, the benefit of higher pay scale on the basis of higher qualification was to be granted from 01.04.1977 and not from 09.07.1973. A recovery of ₹1,36,731/- was also ordered against her. Feeling aggrieved, the petitioner approached this Court by filing CWP-3082-2010 which was disposed of by this Court on 02.03.2010 by holding that no recovery shall be effected from the petitioner. Further, she was referred to the officers' committee for other reliefs claimed by her viz. grant of higher pay scale, counting of her service in JST scale for the purpose of proficiency step up. Pursuant thereto, the case of the petitioner was considered and rejected by the officers' committee vide order dated 18.04.2012. In this background, the petitioner has sought to change her option from 01.01.1986 to 01.01.1988, etc. by way of this petition.

On the other hand, learned State counsel submits that the prayer of the petitioner dated 14.02.1997 for change of option from 01.01.1986 to

01.01.1988 already stands allowed and her pay has been re-fixed accordingly.

Heard.

As regards the prayer of the petitioner for change of option from 01.01.1986 to 01.01.1988, it has come on record that the same already stands accepted and the pay of the petitioner has also been re-fixed accordingly. Therefore such claim of the petitioner has been rendered infructuous.

As far as the prayer for grant of higher pay scale on the basis of higher qualification is concerned, a perusal of circular dated 20.02.1979 (Annexure P-2) reveals that the teachers were held entitled to higher pay scale from the date they acquired higher qualification or from the date of their regularization, whichever is later. It is also revealed that such benefits were to be granted to those teachers who had possessed higher qualification prior to issuance of circular dated 20.02.1979 (Annexure P-2). In the present case, the petitioner had acquired higher qualification on 09.07.1973, whereas, her services as JST teacher came to be regularized w.e.f. 01.04.1977. Therefore, in view of circular dated 20.02.1979 (Annexure P-2), the petitioner was entitled to grant of higher pay scale w.e.f. 01.04.1977, the date on which her services had been regularized.

The last prayer of the petitioner with regard to counting of service rendered under JST scale for the purpose of granting benefits of proficiency step up is also rejected in view of the provisions of the Teachers Act, 2004, i.e. the service rendered prior to 01.01.1986 cannot be considered

for proficiency step up.

In view of the above, finding no merit in the instant petition,
the same is hereby dismissed.

06.05.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No