

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

**CWP No.9306 of 2015
Date of decision:10.12.2019**

Suresh Chander

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.K.Arora, Advocate with
Ms. Maninder, Advocate
for the petitioner.

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

SUVIR SEHGAL J.

The petitioner has approached this Court seeking a writ in the nature of certiorari for quashing the impugned order dated 25.04.2015 (Annexure P-13) passed by respondent No.4; with a further direction to the respondents not to withdraw the grade pay of Rs.4600/- granted to him with effect from 01.10.2011 and the grade pay of Rs.5000/- granted with effect from 01.12.2011.

In brief, the petitioner was appointed as Vocational Teacher (Radio and T.V. Mechanic) with the Punjab Education Department on 09.05.1975. He completed his graduation in 1977. He was denied benefit of higher pay scale. He filed CWP No.365 of 1993 which was allowed on 02.08.1993 (Annexure P-3) in the same terms as CWP No.11517 of 1992 titled as 'Kahan Chand Vocational Teachers and others Vs. State of Punjab

and another' wherein it was held that the petitioners who were appointed as Vocational Teachers will also be entitled to J.S.T.Grade from the date of acquisition of higher qualification. Accordingly, an order dated 17.08.1994 was passed granting him J.S.T.Grade with effect from 16.06.1977. As a result of subsequent round of litigation, the petitioner was granted revised pay scales from time to time.

By virtue of memo dated 26.03.2015 (Annexure P-12) addressed to all the District Education Officers in the State, the Director of Public Instructions (Secondary Education), Punjab issued the instructions that the higher grade pay granted to the Vocational Teachers be withdrawn. In pursuance thereto, the impugned order dated 25.04.2015 (Annexure P-13) was passed by respondent No.4. The petitioner has submitted his reply dated 27.04.2015 (Annexure P-14). During the pendency of this writ petition, he has retired from the service on attaining the age of superannuation on 30.06.2015. His grievance is that the grade pay which had been granted to him in pursuance to the earlier litigation, could not have been withdrawn much less without serving any show-cause-notice to him or without giving any opportunity of hearing to him. He has further submitted that in pursuance to the order dated 25.04.2015 (Annexure P-13), his pension is not being re-fixed.

Upon notice, the respondents have filed their reply and justified their action by placing reliance upon the provisions of Punjab Pay Scale of Teachers Act, 2004.

Counsel for the parties have been heard. Learned State counsel has submitted that in fact, the order dated 25.04.2015 (Annexure P-13) is merely a show-cause-notice to enable the petitioner to submit his response. He has further submitted that the response dated 27.04.2015 (Annexure P-14) had been sent by the petitioner but because of the interim order dated 12.05.2015 passed by this Court staying the operation of the impugned order dated 25.04.2015 (Annexure P-13), no further action has been taken.

In view of the position emerging from the facts noticed above, since the order dated 25.04.2015 (Annexure P-13) is in the nature of action oriented notice which is yet to be acted upon by the respondents and the reply filed by the petitioner thereto is pending consideration with the respondents, it is directed that the respondents shall consider the reply dated 27.04.2015 (Annexure P-14) submitted by the petitioner and pass a speaking order assigning reasons after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of a certified copy of the order. Since the petitioner has retired from the service during the pendency of the writ petition, his claim for pensionary benefits be also settled by the respondents within the aforesaid period.

With these observations, the writ petition is disposed of.

(SUVIR SEHGAL)
JUDGE

December 10, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No