In the High Court of Punjab and Haryana at Chandigarh

102 **CWP-19629-2019 (O & M)**
Date of Decision: May 10, 2022

N. D. VICTOR HIGHER SECONDARY SCHOOL JALANDHAR CANTT **.....PETITIONER**

VERSUS

RAM NARANJAN **....RESPONDENT**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

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

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ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the impugned order dated 05.02019 (Annexure P-5) whereby the order passed by the School (petitioner) for reducing the salary of the respondent has been set aside.

Learned counsel for the petitioner-school submits as there was reduction of grant in aid, the salary of the respondent had to be reduced. He further submits that in a similar case, petition of the educational institution had been dismissed but LPA is pending wherein notice has been issued.

Heard.

Respondent, who is a 57 year old PTI teacher, was working with the petitioner-school. I am in agreement with the order of the Tribunal that merely because grant in aid has been reduced would not entitle the school to reduce the salary of the employee. The grant in aid is meant to help the school in payment of salary. There is noting on record which would indicate that the financial position of the school is such that with the reduction of the grant in aid, the school is not in a position to pay the salary to the employee. It has also been held by the Coordinate Bench of this Court in CWP-30571-2018 titled as **Managing Committee, Public High School, Bullowal, District Hoshiarpur (punjab) through its Chairman vs. State of Punjab and others** decided on 09.01.2019 that reduction of the salary of the employee only due to reduction of grant in aid by the State Government, would not be justified. The relevant extract of the judgment is reproduced hereunder:-

> *"Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.*
>
> *Section 7 of Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979 (herein 'the Act'), reads as follows:-*
>
> > ***"Notwithstanding anything contained in section 3, the scale of pay and dearness allowance of the employees shall not be less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government.***
> >
> > ***Provided that where the scales of pay and dearness allowance of the employees are less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government, the Director shall direct the concerned managing committee to bring the same at par with those of such employees of the State Government."***
> >
> > *A bare reading of the afore-reproduced provision makes it clear that it would be the obligation of the petitioner Managing Committee to disburse salary in favour of respondent No.3 as per pay scale which is not less than the salary pay scale admissible to the corresponding posts under the State*

> *Government. By virtue of Circular dated 07.08.2010, the State Government had only taken a decision that if number of students in a section is less than 30 then grant-in-aid would be reduced proportionately. Such circular did not have the effect of reducing the pay scale admissible to respondent No.3. The Educational Tribunal, Punjab in the impugned order dated 16.01.2018, has rightfully observed that even if the State Government had reduced its obligation under the grant-in-aid scheme, respondent No.3 would continue to remain an employee of the petitioner school and the obligation to pay salary as per pay scale admissible in the light of Section 7 of the Act, would lie squarely upon the management of the school.*

Even otherwise the issue sought to be raised by the petitioner school is no longer res integra.

Respondent No.3 herein had earlier in point of time filed CWP 26445 of 2015, challenging the vires of Clause 67 (1) of the grant-in- aid rules, contained in Chapter 3 of the Education Code. The writ petition was dismissed by taking a view that an employee cannot insist upon the Government subsidizing her salary as grant-in-aid has been validly reduced and the employees salary is payable by the school in question in terms of Section 7 of the Act. Relevant extract of the judgment reproduced as follows:-

> *"The petitioner is employed by a privately managed school.* ***The responsibility of disbursal of salary to its employees which is not less than the salary of a corresponding post of the State Government in terms of Section 7 of the 1979 Act is that of the employer. The grant-in-aid is the***

> ***reimbursement of the expenses incurred by a privately managed school against the post against which grant-in-aid is contemplated under the Rules. Therefore, the payment of salary is the responsibility of the private institute.***
>
> *Grant-in-aid shall be admissible in terms of the policy decision of the State Government which includes the situation when the number of students in a section is less than 30, then, the grant shall be reduced proportionately. The payment of grant fall exclusively in the executive domain. It is the policy of the State Government relating to its finances. Such policy has limited scope of judicial review.*
>
> *Apart from the fact that is a policy matter leading to finances of the State Government, we find that the condition to reduce grant-in-aid for the reason that there are less than 30 students in a section cannot be said to be wholly unjust and arbitrary.* ***Grant-in-aid is given to the private management to facilitate the cause of education, but if there are not enough number of students in a section, the public funds cannot be ordered to be paid to a privately managed institution."***

The challenge as such raised by the petitioner Managing Committee to the impugned order dated 16.01.2018 (Annexure P-8) would stand negated in terms of the observations made by this Court in CWP No.26445 of 2015 and as such reproduced hereinabove.

The contention raised by counsel by placing reliance on the appointment letter dated 22.08.1995 (Annexure P-1) to limit the burden of the school only

> *with regard to release of 5% of the salary is wholly misconceived. The stipulation in the appointment letter dated 22.08.1995 and which was sought to be invoked by counsel reads as follows:-*
>
> > *" The Managing Committee and Headmaster of Public High School, Bullowal, will not be responsible of your pay if your appointment is not approved by the Education Department."*
>
> *It is not the case of the petitioner school that the appointment of respondent No.3, has not been approved by the Education Department, State of Punjab, against an aided post. Even otherwise any stipulation contained in the appointment letter would not override the right vested in favour of respondent No.7 in terms of Section 7 of the Act.*
>
> *The grant of pensionary benefits under the Punjab Privately Managed Recognized Aided Schools Retirement Benefits Scheme, would have no relevance to the issue at hand.*
>
> *Even the subsequent development brought to the notice of this Court whereby the State Government has commenced releasing 95% aid qua respondent No.3 w.e.f. April 2018, would not absolve the petitioner Managing Committee of its liability to pay the salary component as directed by the Educational Tribunal for the period April 2010 to April 2018.*
>
> *For the reasons recorded above, no infirmity is found in the impugned order dated 16.01.2018 passed by the Educational Tribunal, Punjab (Annexure P-8).*
>
> *Writ petition is dismissed."*

In view of the above, I find no infirmity in the impugned order dated 05.02.2019 (Annexure P-5) passed by the Educational Tribunal (School), Punjab.

The petition is dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

May 10, 2022
A.Kaundal

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