

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA Nos. 29, 235, 353 and 359 of 2021 (O & M)

Reserved on: 25.04.2022

Date of Decision: 11.05.2022

State of Punjab and anotherAppellant(s)

vs.

Harvinder Singh and othersRespondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Ms. Monica Chhibber Sharma, Sr. DAG, Punjab,
for the appellants.

G.S. SANDHAWALIA, J.

The present judgment shall dispose of 4 appeals i.e. LPA Nos. 29, 235, 353 and 359 of 2021 as common questions of facts and law are involved in all the appeals. Reference is being made to ***LPA No. 29 of 2021, State of Punjab and another vs. Harvinder Singh and others.***

The present letters patent appeal arises out of the common judgment of the learned Single Judge passed in ***CWP No. 2031 of 2016, Harvinder Singh and others vs. State of Punjab and another*** decided on 21.01.2020. The State is aggrieved against the said judgment wherein, the learned Single Judge has granted the writ petitioners minimum of the pay scale on the basis that they had performed their duties with effect from the date of appointment. The arrears, however, have been restricted to 38 months prior to filing the writ petitions after adjustment of the amount already paid. The interest element was not awarded as such to the writ petitioners. The said judgment was on the basis of the binding precedent of

the Apex Court in *State of Punjab and others vs. Jagjit Singh and others, 2016 (4) SCT 641*.

The defence of the State that on account of the fact that the petitioners were appointed on contract basis and they had applied in pursuance of an advertisement and having accepted the terms and conditions of the advertisement and were not entitled for the said benefit. The same was rejected keeping in view the law laid down by the Full Bench of this Court in *Vijay Sharma vs. State of Punjab, 2002 (1) SCT 931* and the judgment in *Jagjit Singh (supra)*.

It was noticed that the employment as such was made against the regular sanctioned posts as per statutory Rules and a finding was recorded that the same was totally unjustified and no explanation had come as to why they were appointed on contract basis at the first instance. Accordingly, para Nos.54 to 57 of the judgment of the Apex Court in *Jagjit Singh (supra)* were applied to grant the necessary benefit.

A perusal of the writ petition as such would go on to show that the claim was made on account of the fact that the writ petitioners were being paid meager consolidated salary of Rs.6,500/- per month, which was even less than the rates specified by the Deputy Commissioner. In view of the judgment of the Full Bench in *Vijay Sharma (supra)*, they had approached this Court. The pleading as such was that 5078 posts of Rural Associate Teachers in the Master Cadre were being filled on contract basis, advertised vide advertisement dated 09.09.2012 and the same was to be for a period of 3 years and they were also to be considered for regularization. The amount was to be increased at Rs.500/- annually and they were

resultantly offered appointment on 25.11.2014 (Annexure P-2 in the writ

petition). Reliance was also placed on another advertisement dated 20.11.2015 (Annexure P-7 in the writ petition) wherein also, the monthly salary of ETT teachers was to be paid as per the notification dated 15.01.2015 issued by the Finance Department, Government of Punjab and, thus, contention was that they were to be paid Rs.10,300/- monthly, which was minimum of the pay scale meant for Class-III posts of Master cadre.

The defence of the State was that the others were recruited vide different advertisements and, therefore, were bound by the terms of contract. In reply also, it was admitted that the Council of Ministers, on 06.03.2019, decided to regularize the services of 5178 teachers with a condition that their probation period of two years will be considered from the date of expiry of their contract and they were to be paid basic pay and grade pay during the remaining period of probation after regularization of services. The requisite decision has been appended as Annexure R-1. The requisite notification which was issued for regularizing the services dated 07.03.2019 (Annexure R-2/T) has also been placed on record whereby, as per the decision of Council of Ministers, the appointment made on contract basis was given permanency.

It is, thus, apparent that the writ petitioners have been duly regularized. In such circumstances, finding which has been recorded by the learned Single Judge cannot be faulted that they had been appointed against regular sanctioned posts as per statutory Rules and putting them on contract basis was totally unjustified. Rather proper selection process as such was adopted and the finding cannot be found to be suffering from any infirmity or illegality in view of the above facts. In such circumstances, 38 months

the writ petitioners have been held entitled for payment of their dues as per the law laid down by the Apex Court in *Jagjit Singh (supra)*. The fact that they were working and discharging similar duties and responsibilities as regular employees, thus, cannot be as such distinguished by the State.

We do not see any reason as to why the order of the learned Single Judge would require interference in the absence of any illegality of irregularity, more so when it is based on the binding precedent of the Apex Court, which the State of Punjab is bound to follow. It is also pertinent to notice that on 17.12.2021, State had been directed to file an affidavit whether they have any instructions issued for implementation of the judgment across the board and whether it would be applicable to all departments. In spite of an opportunity granted way back 5 months prior in time, necessary affidavit has not been filed.

In such circumstances, no case is made out for interference and accordingly, the present appeals stand dismissed. All the miscellaneous applications also stand disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

11.05.2022
shivani

(VIKAS SURI)
JUDGE

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