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2023:PHHC:078121

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

RA-CW-15-2019 AND

RA-CW-45-2019 IN CWP-22582-2014

Date of Decision: 24.05.2023

DR. KANWARJIT SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kanwarjit Singh, review applicant-petitioner in person.

Mr. Kanwaljit Singh, Senior Advocate with
Mr. Anirudh Gupta, Advocate
for the review applicant-respondent No.4.

Mr. Athar Ahmed, DAG, Punjab.

JAISHREE THAKUR.J (Oral)

1. RA-CW-15-2019 has been filed by the petitioner himself whereas RA-CW-45-2019 has been filed by respondent No.4 seeking review of the judgment dated 03.03.2017 passed by this Court.

2. CWP No.22582 of 2014 was filed by the petitioner-Dr. Kanwarjit Singh seeking a writ in the nature of mandamus directing the respondents to grant arrears of salary and allowances on account of having worked on a higher post of Principal of Gurmat College, Patiala in the pay scale of Rs.37400-67000 +AGP Rs.10,000/- along with interest. It had been argued that the petitioner had been appointed as an officiating Principal and had discharged his duties as such from 23.01.2006 to 14.10.2007 and

thereafter from 05.06.2009, he again discharged his duties as an officiating Principal till November 2018. The writ petition was contested on all grounds and ultimately vide order dated 03.03.2017, this Court in paragraph 10 had held that on discharge of duties on a higher post, an employee would be entitled to the pay commensurate to the said post. The petitioner was held entitled to the same but limited the arrears for 38 months prior to filing of the writ petition.

3. The petitioner filed LPA bearing No.861 of 2017 on the grounds that all issues as raised in the writ petition had not been considered as well as against the decision taken to limit the relief to 38 months. Cross Objections were also filed by the College numbered as Cross Objection No.1-LPA of 2018 on the ground that the petitioner would not be entitled to the relief as claimed and the judgments as relied upon by the Single Bench were not applicable. Another argument has been raised in the cross objections filed that the financial liability could not have been fastened on the College considering that it was an aided post.

4. It would be pertinent to note that the LPA stood disposed of on 04.12.2018 giving liberty to the petitioner herein to approach the Single Bench in appropriate proceedings, whereas the cross objections were disposed of to the limited extent that the objector may approach the Single Bench but as far as the primary liability of admitting the respondent-appellant therein to the higher pays on account of discharging additional duties as an officiating Principal was concerned, no interference was made. It would be relevant to note that the State, which had contested the writ

petition, chose not to file any LPA. It is in this background that the parties are before this Court.

5. At this juncture, the petitioner, who is appearing in person, limits his prayer only to the release of arrears in terms of the judgment so passed regarding his higher remuneration on account of having worked as a Principal, whereas learned Senior Advocate appearing on behalf of the College in review application RA-CW-45-2019, would submit that being grant-in-aid College, the primary payment has to be made by the State. They have already addressed letters to respondent No.2, to which, there has been no response.

6. During the course of hearing, a question was put to the respondent-State as to why the funds were not being released for payment to the petitioner herein considering the fact that his relief for a higher pay scale had been upheld by the Division Bench by dismissing the pleas as taken by the respondent-College.

7. An argument is sought to be raised on behalf of the respondent-State that the petitioner herein had worked on an officiating post and, therefore, would not be entitled to any relief. This argument, as raised, did not seem logical as noticed in the order dated 11.04.2023 and consequently, this Court had directed the same to be released expeditiously as possible. The matter was taken up on subsequent hearings and vide order dated 15.05.2023, this Court in principal did not agree to the argument raised by the respondent State that there is no provision for releasing grant-in-aid in case a person is officiating on a post. Taking into account the argument raised, time was

again allowed to the State to place on record any such reply by filing reply.

8. Reply by way of affidavit of Ashwani Kumar Bhalla, Deputy Director, office of Directorate of Higher Education Punjab, filed on behalf of respondents No.1, 2 and 5, which is taken on record. A justification has sought to be given as to why the amount cannot be released. A perusal of paragraph 2 thereof would reflect that 95% grant-in-aid is to be released in case the appointment procedure for the post of Principal in the Privately Managed Grant-in-Aid Colleges is made as procedure. It would be relevant to note that none of these arguments had been raised at the time of the writ petition being argued nor has the State filed any review/LPA against the judgment and, therefore, the State is now estopped by its own act and conduct from raising any plea not taken before. The State also cannot justify or has not been able to justify that any person working on an officiating post can be denied his higher salary.

9. Consequently, the review petition as filed by the College is allowed and the judgment dated 03.03.2017 is modified to the extent that the arrears which are to be disbursed to the petitioner would be in the ratio of 95% to be paid by the State considering it is an grant-in-aid College and 5% to be released by the College itself.

10. The petitioner, who is present in Court, does not raise any other plea regarding the legality and validity of the decision taken in the writ petition on 03.03.2017. Having held that the petitioner is entitled to his arrears, let the petitioner furnish details of the amount so payable to him to the College within a period of one week as well as forward the same by a

registered/speed post to the office of the DPI Colleges. It would be expected that the principal amount, as claimed, would be released within a period of two months thereafter.

11. The objection of reduction in interest rate as raised by learned Senior Advocate appearing on behalf of the College on the ground that they cannot be faulted, is also acceptable. Rate of interest is hereby reduced to 6% per annum on the principal amount and in case the same is not released within a period of two months, as stipulated hereinabove, the entire principal amount payable will carry interest @ 9% per annum.

12. Review application filed by the petitioner is disposed of.

(JAISHREE THAKUR)
JUDGE

24.05.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No