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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12072-1996 (O&M)
Date of Decision:01.08.2023

AMARJIT KAUR

.....*Petitioner*

V/s.

**STATE OF PUNJAB THROUGH SECRETARY TO GOVERNMENT,
EDUCATION DEPARTMENT AND OTHERS**

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Abhishek Kaushik, Advocate,
 for Mr. V.K. Jindal, Advocate,
 for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner preferred this Writ Petition for issuance of Writ in the nature of *certiorari* for quashing of order dt.02.07.1996 (Annexure P-10) and for issuance of a Writ in the nature of *mandamus* directing the respondents to restore the amount already paid to the petitioner.

2. Learned counsel for the petitioner submits that the petitioner has joined as Nursing Teacher on 01.03.1973. At the time of her appointment, she possessed the qualification of matriculation and had also passed Diploma course examination conducted by the Manava Bharti Institute of Child Education and Psychology running at Nursery and Infant Teacher Training Centre at Mussoorie. She has also passed the Prabhakar examination in March 1997. On the basis of the qualifications, she was selected to join the JBT training and completed the same in May, 1980. Her services were regularized vide order dt.12.09.1986 w.e.f. 01.04.1985.

3. The petitioner's case for consideration for grant of higher scale, meant for Classical and Vernacular Teacher (hereinafter referred to as "C&V Teacher"), was accepted by the respondents-State and as she had already passed the Nursery Course equivalent to JBT, she was granted the pay scale of JBT Teacher from her initial date of appointment and an amount of ₹43,888/- was paid to the petitioner as arrears of re-fixation of pay and was granted the grade of C&V Teacher based on her Prabhakar qualification.

4. On 08.10.1994, the petitioner was served with a Memo (Annexure P-6) from the Block Primary Education Officer demanding recovery of an excess amount paid to her. The said memo was challenged by the petitioner before this Court by way of CWP-3923-1995, and this Court vide its order dt.23.08.1995 quashed the said demand notice with liberty to the respondents-State to issue a show cause notice to the petitioner before effecting recovery from her.

5. In compliance thereto, the respondents issued show cause notice on 14.12.1995 before making recovery from the petitioner and thereafter recovery order (Annexure P-10) was issued seeking recovery of ₹43,888/-.

6. Learned counsel for the petitioner submits that the petitioner had rightly been granted the higher grade from her initial date of appointment as she possessed the requisite qualifications and the arrears amount paid to her were not liable to be recovered. She was entitled for regular pay scale from the date of her initial appointment

7. It has been pointed out by the learned counsel for the petitioner that the training imparted to the petitioner was treated at par with JBT training by the Punjab Government and in fact the petitioner was not required

to acquire separate JBT training. The JBT teachers and Nursery teachers are placed in the same scale of ₹125-₹300 and therefore, the State Government had rightly granted the arrears of the salary to the petitioner from her initial date of appointment.

8. In support of his submission, Documents/instruction dt.06.04.1955 and 13.02.1990 (Annexure P-11 and P-12 respectively) have been placed on record by the learned counsel for the petitioner.

9. The respondents have filed their reply, wherein they have admitted that the petitioner had passed Kindergarten Course prior to 16.06.1989 in the year 1972, but it is stated that the petitioner was having merely one year's teacher training course whereas the qualification of the JBT Teacher is matriculation plus 2 years course and she became eligible for JBT Teacher on 27.08.1980 after cut-off date i.e. 19.02.1979 and therefore, she was not governed under the instructions of higher grade. Thus, the recovery order is supported by the respondents.

10. I have considered the submissions of the learned counsel for both the parties and perused the record available of the present case.

11. Looking at the letter dt.13.02.1990 (Annexure P-12), issued by the Punjab Education Department, reflects that the Kindergarten course prior to 16.06.1989 had been treated as equivalent to the JBT course. The earlier letter dt.06.04.1955 (Annexure P-11) also treated the Manava Bharti Institute of Child Education and Psychology running at Nursery and Infant Teacher Training Centre at Mussorie as a recognized Institute for Training of Women Teachers in Nursery and Infant Education and such trained teachers were to be given the same status as given to the basic trained teachers of the State.

12. Keeping in view thereto, this Court has no hesitation in holding that the action of the respondents in making recovery of the amount already released to the petitioner as unjustified and illegal.

13. In view of the aforesaid, this Writ Petition is allowed quashing the impugned order dt.02.07.1996 (Annexure P-10) passed by respondent No.3-the District Education Officer, Sangrur with a further direction to restore the amount so recovered from the petitioner along with interest @ 9% per annum.

14. This order shall be complied with by the respondents within a period of 3 months from today.

August 1, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

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