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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8805-1997 (O&M)

Date of Decision:04.12.2023

DHARAM DEV AND OTHERS

.....*Petitioners*

V/s.

STATE OF PUNJAB AND OTHER

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: None for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. No one has put in appearance on behalf of the petitioners.
2. This Writ Petition is pending since 1997 wherein the petitioners have prayed for directing the respondents to pay the petitioners higher grade in accordance with the qualifications possessed/acquired by them in terms of the Government instructions issued from time to time and the order passed by this Court.
3. The petitioners have relied on the directions on the issue by the State Government for granting benefit of additional increment on acquiring higher qualifications of Graduation. It is stated that the Teachers had preferred Writ Petition before this Court and the judgment passed in the **Kirpal Singh Bhatia and Others** Vs. **Union of India and Others;** 1970 CLJ 81, whereby the Teachers were directed to be paid according to the qualifications irrespective of the posts they were holding.
4. It is further stated that the State Government issued a circular on 19.02.1979 directing to grant the Teachers benefit of the higher qualification,

higher pay scale who had had acquired their qualification before the issuance of the said letter.

5. Vide another letter dated 20.09.1979, it was clarified that those who have improved their qualification be also given the higher pay scale.

6. It was, however, further stated that the actual payment of enhanced rates will commence from 19.02.1979 and the payment of arrears would be restricted to maximum of 38 months. Thereafter, vide letter dated 07.08.1986, a decision was taken by the State Government to grant higher pay scale to all those Teachers who possess higher qualifications of Part I and Part II or BA in addition to the qualifications required for the post they are holding. It is submitted that the petitioners have been discriminated as JBT Teachers while they have granted the scale to the Masters and Mistresses belonging to the State cadre, the petitioners aggrieved of their not granting of grade of ₹110-₹250/-.

7. *Per contra*, learned State counsel relied on the judgment passed in the case of State of Punjab and Others Vs. Om Parkash Kaushal wherein the Supreme Court has noticed that the benefit of grant of higher pay scale on acquiring Post Graduate qualifications was only upto 19.02.1979, whereafter, it was provided that all those who acquired the qualification prior to the issuance of the order dated 19.02.01979 would be entitled to the same. The petitioners' claim has been contested and it is stated that the petitioners did not acquire their qualifications prior to 19.02.10979, and acquired the same

after cut-off date 19.02.1979 and therefore, they would not be entitled to the said benefit.

8. No counter has been filed by the petitioners to the reply of the respondents. In view thereof, the statement made by the learned State counsel is accepted and accordingly, since the petitioners have acquired qualifications after the cut-off date i.e. 19.02.1979 as stated by the respondents, no relief possible can be granted to them. The Writ Petition is **dismissed** accordingly.

9. All the pending applications in this Writ Petition stand disposed of accordingly.

December 4, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No