

2408

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18315-1996 (O&M)

Date of Decision: 06.10.2023

BALBIR KAUR

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. Shreesh Kakkar, Advocate,
for Mr. Kapil Kakkar, Advocate,
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner by way of this Writ Petition claims higher pay scale at the initial stage of her appointment on the ground that the petitioner possesses qualification of M.A. (Hindi).

2. Learned counsel for the petitioner submits that appointment of the petitioner was made on 06.10.1975 on the post of Hindi Teacher which carries the pay scale of ₹170/- - ₹350/-, but instead of the said pay scale, the petitioner was granted pay scale of J.B.T. Teacher of ₹125/- ₹300/- on the ground that the petitioner was not in possession of the qualification of Parbhakar.

3. Learned counsel for the petitioner submits that the qualification acquired by the petitioner i.e M.A. (Hindi) is higher than the qualification of Parbhakar and therefore, she is entitled to receive the higher pay scale of ₹170-₹350/-. It is further stated that similarly placed Teachers,

who had passed the qualification of B.A. Part I, II and III, moved a Writ Petition before this Court i.e CWP-1810-1976, Labh Singh Garcha Vs. State of Punjab decided on 20.07.1976, which was allowed granting the benefit to them. The State preferred an Appeal before the Hon'ble Supreme Court by way of Civil Appeals No.926-927 of 1977, but the same was dismissed on 07.08.1979 and the State was directed to grant the then petitioners the higher pay scale according to the qualification possessed by them.

4. Learned counsel for the petitioner relies on the judgment passed by the Supreme Court in the State of Haryana vs. Rajpal Sharma; 1996 (3) RSJ 732 to submit that Haryana too entitled the Teachers the higher scale on acquiring higher qualification acquired by them.

5. *Per contra*, learned Counsel for the respondents have submitted that the petitioner is not entitled to the said benefit.

6. I have considered the submissions of learned counsel for the parties.

7. The petitioner, who is working in an aided institution, admittedly is being granted the pay scale and Dearness Allowance which is being paid to the Government Teachers. The claim of the petitioner is based on the benefit extended to the Government Teachers of grant of higher pay on acquiring of higher qualification. The incentives which are being provided to the State Government Teachers, such as advanced increments on acquiring higher educational qualification, cannot be extended automatically to the Teachers working in the private aided institutions. The

benefit of grant of increments of acquiring higher qualification flowing from the Government instructions which are applicable on the State Government Teachers alone, therefore, cannot be extended to the Teachers working in the private aided institutions. Admittedly, the petitioner was working in the private aided institution and therefore, she would not be entitled for the said benefit. Similar view has also been taken by the Supreme Court in the case of State of Punjab Vs. Om Parkash Kaushal and the relief which was granted by this Court, was denied and the orders passed by this Court was set aside in Civil Appeal No.9103-05 of 1996 dated 08.07.1996. In view thereof, relief as prayed for by the petitioner in this Writ Petition cannot be granted to her and accordingly, this Writ Petition is dismissed.

8. All pending applications in this Writ Petition shall stand disposed of accordingly.

October 6, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>