

		CWP-15102 of 2011 Date of Decision: 09.08.2023
1.	Satya Paul Dogra Versus State of Punjab and others.	 Petitioner Respondents
2.	Sumit Kumar and others Versus State of Punjab and another.	CWP-15340 of 201(O&M) Petitioners Respondents
3.	Kashmira Singh and others Versus State of Punjab and another.	CWP-15918 of 2011 Petitioners Respondents
4.	Lalit Kumar and others Versus State of Punjab and others.	CWP-16916 of 2011 Petitioners Respondents
5.	Nirmal Singh and others Versus State of Punjab and another.	CWP-16388 of 2011 Petitioners Respondents
6.	Taranjit Singh and others Versus State of Punjab and others.	CWP-17357 of 2011 Petitioners Respondents
7.	Ajit Singh and others Versus State of Punjab and another.	CWP-17381 of 2011 Petitioners Respondents
8.	Ram Kumar Sharma and others Versus State of Punjab and another.	CWP-17657 of 2011 Petitioners Respondents
9.	Surinder Kumar and others Versus State of Punjab and another.	CWP-17663 of 2011 Petitioners Respondents
10.	Narinder Singh and others Versus State of Punjab and another.	CWP-17770 of 2011 Petitioners Respondents

11.	Jaspal Singh and others	Versus	State of Punjab and another.	CWP-17882 of 2011 Petitioners Respondents
12.	Nirbhai and others	Versus	State of Punjab and another.	CWP-17857 of 2011 Petitioners Respondents
13.	Ram Kumar and others	Versus	State of Punjab and others.	CWP-17864 of 2011 Petitioners Respondents
14.	Sarwan Kumar and others	Versus	State of Punjab and others.	CWP-17872 of 2011 Petitioners Respondents
15.	Sukhdarshan Singh and others	Versus	State of Punjab and others.	CWP-17916 of 2011 Petitioners Respondents
16.	Harbhajan Singh and others	Versus	State of Punjab and another.	CWP-17972 of 2011 Petitioners Respondents
17.	Jagmandar Singh and others	Versus	State of Punjab and another.	CWP-17996 of 2011 Petitioners Respondents
18.	Naveen Sandesh Moudgil and others	Versus	State of Punjab and another.	CWP-18090 of 2011 Petitioners Respondents
19.	Mitha Singh and others	Versus	State of Punjab and others.	CWP-18331 of 2011 Petitioners Respondents
20.	Balwinder Singh and others	Versus	State of Punjab and another.	CWP-18334 of 2011 Petitioners Respondents

- | | |
|---|--|
| 21. Satish Gupta and others
Versus
State of Punjab and another. | CWP-18336 of 2011
.... Petitioners

.... Respondents |
| 22. Sukhchain Singh and and others
Versus
State of Punjab and others. | CWP-18347 of 2011
.... Petitioners

.... Respondents |
| 23. Surinder Pal Kaur and others
Versus
State of Punjab and another. | CWP-18354 of 2011
.... Petitioners

.... Respondents |
| 24. Karamjit Singh and others
Versus
State of Punjab and another. | CWP-18433 of 2011
.... Petitioners

.... Respondents |
| 25. Kulwinder Singh and others
Versus
State of Punjab and another. | CWP-18436 of 2011
.... Petitioners

.... Respondents |
| 26. Shivani Sharma and others
Versus
State of Punjab and another. | CWP-18464 of 2011
.... Petitioners

.... Respondents |
| 27. Jarnail Singh and others
Versus
State of Punjab and another. | CWP-18460 of 2011
.... Petitioners

.... Respondents |
| 28. Jagat Singh and others
Versus
State of Punjab and another. | CWP-20326 of 2011
.... Petitioners

.... Respondents |

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.Nirmal Singh Advocate for the petitioners in
CWP Nos.17381 of 2011, 17657 of 2011, 17663 of 2011
& 17822 of 2011.

Mr.R.K.Arora, Advocate with
Mr. Jugam Arora Advocate and
Ms. Saguna Arora, Advocate in CWP No.18090 of 2011
and CWP No.17770 of 2011.

Ms. Jyoti Chahal, Advocate for
Mr. R.S.Budhwar, Advocate for the petitioners
CWP No.17857-2011, 17996-2011.

Mr.Kapil Kakkar, Advocate for the petitioners
In CWP No.16916 of 2011, 17357 of 2011 and
CWP No.17864 of 2011.

Mr.Sunny Singla, Advocate and
Ms. Ritu Aggarwal, Advocate for the petitioners in
CWP No.18331, 18334, 18336, 18354, 18433, 18436,
18464 of 2011.

Mr.Vikas Chatrath, Advocate for the petitioners in
CWP No.17872 and CWP No.17916 of 2011.

Mr. Kamaldip Singh Sidhu, Advocate for the petitioners
in CWP No.18347 of 2011

Mr. R.K.Kapoor, Addl.,A.G., Punjab with
Mr. Charanpreet Singh, AAG, Punjab

SANJEEV PRAKASH SHARMA, J (ORAL)

By this order, I propose to dispose of twenty eight writ petitions, as common question of facts and law are involved in the same. For deciding these petitions, facts are taken from CWP No.15102 of 2011 for convenience.

2. The present writ petition, have been filed for issuance of a writ of Certiorari, Mandamus or any other suitable writ, order or direction quashing the impugned orders dated 19.02.1979 (Annexure P-4) and 20.09.1979 (Annexure P-5) to the extent that the same restrict the benefits of pay according to qualifications of the teachers working in the Department of Education, Punjab who have regularly been appointed as Master and also have acquired/ possessed the qualifications of M.A./ M.Sc/ M.Ed. prior to 19.2.1979.

3. Learned counsel for the respondent submits that the reply on behalf of the State is no more required as the issues raised by the petitioners are no more *res-integra* in view of the judgement passed by this Court in *CWP No.2632 of 1985 titled as Vidya Sagar Singla and others Vs. The State of Punjab and another* decided on 21.02.1986 wherein the controversy has been put to rest.

4. Learned counsel for the petitioners do not object to the case being decided in the same terms. In *Vidya Sagar's case (Supra)*, the Court noticed various communications shown by the Government and reached to the conclusion that at all the stages, the Government had decided to grant advance increments to the employees covered by the rules who were having post graduate qualification at the time of entry into service or acquired the same later on.

The High Court, therefore, held as under:-

“ In the light of the discussions above, it is held that the petitioners who were then having Post Graduate qualification, i.e. M.A./M.Sc./ M.Ed. at the time of their entry into service or acquired these later during the course of their service, are entitled to advance increments of pay in the light of Annexure P.2 and P.3 with effect from the date of their entry into service or the date of acquiring the qualifications. It is, therefore, directed that the respondent authorities would refix the pay of the petitioners in the light of this conclusion of mine. For clarity's sake it may, however, be mentioned here that so far as the question of payment of arrears is concerned, the letter Annexure P-3 on the basis of which they are primarily succeeding as supplemented by the later instructions Annexure :P-4 would govern the same and be confined to a maximum period of thirty- eight months prior to the issuance of instructions Annexure P-3 i.e. February, 19 1979. I however, pass no order to as costs.”

5. The Supreme Court in ***Chaman Lal and others Vs. State of Haryana 1987(3) SCC page 113*** has considered the aforesaid aspect and observed with reference to the judgement passed by this Court in ***State of Punjab and others Vs. Kirpal Singh Bhatia and others, (1975) 2 SLR 621*** as under:-

On September 5, 1979, the Government of Haryana issued an order in the following words:

"Sanction of the Governor of Haryana is hereby accorded w.e.f. 5.9.1979 of the grant of Masters grade to unadjusted J.B.T. teachers who have passed B.A.,B.Ed., subject to the following conditions:-

- (i) That the expenditure involved would be met from the savings of the current year revised sanctioned estimates.*
- (ii) That these teachers will not be allowed any seniority in the cadre of masters.*
- (iii) That it will not form a precedent for future.*
- (iv) That the award of Master's grade to the concerned teachers would be personal to them."*

This order of the Government is now sought to be interpreted and it has been so interpreted by the High Court of Punjab and Haryana in the judgment under appeal that those teachers who had acquired the B.T. or B.Ed. qualification subsequent to December 1, 1967 (the date on which the 1968 order came into force) and before September 5, 1979 would be entitled to the higher grade but with effect from September 5, 1979 only and that those who acquired the qualification subsequent to September 5, 1979 would not be entitled to the higher grade. According to the judgment of the High Court under Appeal, the 1968 order did away with the principle of the 1957 order that teachers acquiring B.T. or B.Ed. qualification should get the higher grade and that a concession was shown in 1979 enabling the teachers who acquired the B.T. or B.Ed. qualification between 1968 and 1979 to get the higher scale from 1979. In our opinion this is plainly to ignore all the events that took place between 1957 and 1980. The principle that pay should be linked to qualification was accepted by the Punjab Government in 1957 and when Kirpal Singh Bhatia's case was argued in the High Court and in the Supreme Court there was not the slightest

whisper that the principle had been departed from in the 1968 order. In fact the 1968 order expressly stated that the Government had accepted the Kothari Commission's report in regard to scale of pay was the linking of pay to qualification. That was apparently the reason why no such argument was advanced in Kirpal Singh Bhatia's case. Even subsequently when several writ petitions were disposed of by the High Court of Punjab and Haryana and when the Government issued consequential orders, it was never suggested that the 1968 order was a retraction from the principle of qualification linked pay. The 1968 order must be read in the light of the 1957 order and the report of the Kethari Commission which was accepted. If so read there can be no doubt that the Government never intended to retract from the principle that teachers acquiring the B.T. or B.Ed. would be entitled to the higher grade with effect from the respective dates of their acquiring that qualification. The 1979 order was indeed superfluous. There was no need for any special sanction for the grant of Master's grade to unadjusted JBT teachers who had passed B.A., B.Ed. That was already the position which obtained both as a result of the 1957 and 1958 orders and the several judgments of the Court. We do not think that the Punjab and Haryana High Court was justified in departing from the rule in the judgment under appeal. The rule had been well established and consistently acted upon. Nor was it open to the Government to act upon the principle in some cases and depart from it in other cases. In the result we allow the appeal and the Writ Petitions and direct the respondents to give the higher grade admissible to Masters to all the teachers who have acquired the B.T./B.Ed. qualification with effect from the respective dates of their acquiring the qualification. The appellants and the petitioners are entitled to their costs.

6. The directions issued by the Supreme Court as well as by this Court as above shall, therefore, apply *mutatis mutandis* for all the petitioners and the petitioners would be awarded advance increment on acquiring the higher qualifications under the Pay Scale Rules which were applicable at that time after the higher qualification was acquired. The pay fixation of the petitioners would accordingly be revised and further arrears shall be calculated and

released to the petitioners within a period of three months from the date of certified copy of this order. However, no interest is required to be paid. If the petitioners have retired during the pendency of this writ petitions, their pension and retrial benefits shall also be accordingly revised and released.

7. All the writ petitions are allowed in the abovesaid terms.

(SANJEEV PRAKASH SHARMA)
JUDGE

9.8.2023
Raman

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