

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

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**CWP-33562-2019 (O&M)
Date of decision: 11.01.2023**

Kiran Devi and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sajjan Singh, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari/mandamus for quashing the impugned letters/orders Annexures P-8 and P-9 of even date i.e. 08.11.2019 for recovery of interest on the arrears of pay already granted to the petitioners and to stay the operation of the same.

Learned counsel for the petitioners submits that the petitioners were appointed in December-2004 as TGT/Mistress in Social Studies in the School Education Department Haryana. The pay scales were revised w.e.f. 01.01.2006. The dispute is that a different criteria was adopted for those who were appointed prior to 01.01.2006 and for those who were recruited after 01.01.2006 and as a result, the employees who were recruited after 01.01.2006 are drawing more salary than to the employees recruited prior to 01.01.2006. Pursuant to the order dated 20.12.2017 passed in CWP-9227-2017, the pay of the petitioners was re-fixed by stepping up at par with the juniors and both the petitioners were paid arrears of salaries to the tune of Rs. 2,25,521/- and arrear of interest on salaries to the tune of Rs. 1,32,308/- each.

On 08.11.2019, respondent No.3 issued an office order to recover the amount of interest paid to the petitioners.

In support of his case, learned counsel for the petitioners relies upon the judgment of Supreme Court passed in 'State of Punjab and others Vs. Rafiq Masih (White Washer) etc.', 2015(4) SCC 334 and 'High Court of Punjab and Haryana & Ors. Vs. Jagdev Singh', 2016 (14) SCC 267.

Learned State counsel submit that as per the written statement filed on behalf of respondent Nos. 1 to 4, there is no dispute regarding the arrears of salaries paid to the petitioners, the dispute is regarding the arrear of interest on salaries paid to the petitioners by respondent No.4. Show cause notice has already been issued to respondent No.4 in this regard.

I have heard the learned counsel for the parties and have also gone through the documents on record.

Since the amount of arrears of salaries and arrears of interest on salaries, were paid to the petitioners by respondent No. 4 and they have not misrepresented the department and in view of the law laid down by the Supreme Court in case of Rafiq Masih (supra), recovery cannot be effected on account of payment mistakenly having been made by the employer to the employees in excess of their entitlement.

In view of the above, the petition is allowed. The letter/orders Annexures P-8 and P-9 of even date i.e. 08.11.2019 for recovery of interest on the arrears of pay already granted to the petitioners, are hereby quashed.

(HARNARESH SINGH GILL)
JUDGE

11.01.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No