

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-30058 of 2022 (O&M)

Date of decision: 20.01.2023

Ms. Kusum Lata and another

..Petitioners

Versus

State of Punjab and others

..Respondents

CWP-30114 of 2022 (O&M)

Date of decision: 20.01.2023

Megh Dass

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K.Arora, Advocate
for the petitioners.

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

ANIL KSHETARPAL, J(Oral)

1. This order shall dispose of two Civil Writ Petition No.30058 and 30114 of 2022.

2. In order to understand the grievance of the petitioners, it would be appropriate to extract the order dated 10.01.2013, which reads as under:-

“After having heard the learned counsel representing the petitioners at sufficient length, the issue which requires adjudication is “As to whether the employees, who have been granted an extension of tenure of service being the recipient of National Awards as teachers are entitled annual increments during the aforesaid extension period or not?” The learned counsel

*representing the petitioners relies upon a judgment passed by the Division Bench in **Manjit Walia vs. State of Punjab and others** (CWP No.16080 of 1999 decided on 31.07.2002).*

On the other hand, there is a conscious decision taken by the government vide memo dated 25.02.2014 denying the benefit of annual increments.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab, is requested to take the complete instructions before the next date of hearing and assist the Court.

Adjourned to 17.01.2023.

A photocopy of this order be placed on the file of the other connected case.”

3. On being put to notice, the respondent-State relies upon the instructions, dated 25.02.2014 to claim that the petitioners, though, granted extension being the recipients of the National Award as teachers are not entitled to the annual increment.

4. This issue is no longer res-integra in view of the judgment passed in **Manjit Walia's case (supra)**. The Division Bench after considering the stand of the Punjab Government had held as under:-

“Even legally, there is a definite distinction between 'extension' in service and 're-employment'. 'Extension' in the present context implies an increase in length of time; increased or continued duration'. There is grant of additional time'. A continuity of the individual's

tenure of service for a longer time. As against this, re-employ' means- to hire back'. An employee is re-employed after the lay off'. There is no element of continuity.' Re-employment is like a fresh employment after a gap. Thus, extension is not always the same thing as re-employment. Consequently, even if the State Government has issued instructions providing that no increment shall be allowed on re-employment (though the respondents have not produced a copy), it cannot mean that it shall also not be admissible when the employer gives extension' in service.

iii) The petitioner was granted extension in service. She was not re-employed. Her service was continuous. She was even promoted during the extended period of service. If promotion could be given, there is no reason for denying the increments. Resultantly, even increments for the extended period of service had to be given. The respondents shall do so within four weeks from the receipt of a certified copy of this order, whatever is found due shall be paid to the petitioner.”

5. The learned counsel representing the State of Punjab submits that the instructions, dated 25.02.2014 are subsequent to the judgment passed by the High Court. Hence, the aforesaid judgment shall not come to the rescue of the petitioners.

6. The argument of the learned counsel representing the State of Punjab is fallacious. Where, as a ratio *decidendi* a Division Bench of the

High Court has decided that the 'extension' in service does not come under the purview of re-employment but is to be taken as the continuation of original service, the argument put forth by the learned counsel representing the State becomes groundless.

7. In such circumstances, the subsequent instructions issued by the Government of Punjab being contrary to the declaration of law cannot be enforced in any manner.

8. In view of the aforesaid discussion, the writ petitions are allowed.

9. The respondent-State is directed to release the annual increments to the petitioners as and when due, within a period of three months, from today, positively.

10. All the pending miscellaneous applications, if any, are also disposed of.

January 20, 2023
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(ANIL KSHETARPAL)
JUDGE

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