



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

(Sr. No.228)

LPA No.202 of 2019 (O&M)

Date of decision: 21.08.2024

Ms. Suman Bala Sharma

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Raja Sharma, Legal Aid Counsel for the appellant.

Mr. Hitesh Pandit, Addl. A. G., Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

(1) On 25.10.1972, the appellant was appointed as a Junior Basic Training Teacher (for short – JBT Teacher). Her appointment was on six monthly basis or till a regular appointee joined on the post against which she had been appointed or till the time her work and conduct was found satisfactory. She was relieved on 25.04.1973 and again through order dated 06.07.1973 was reappointed on the same terms, as above. This arrangement continued till the appellant's services as a JBT Teacher were regularized under the policy of the State of Haryana dated 01.07.1980. Accordingly, the appellant became a member of the service on 24.09.1980.

(2) The appellant petitioned this Court through which she sought the following reliefs : -



“It is further prayed that a writ in the nature of certiorari/mandamus be issued and order dated 29.08.2003 and 19.09.2005 (Ann-P/12 & Ann-P/13) may please be quashed and respondents directed;

- I. To re-affix the salary of the petitioner in the (JST) Scale with effect from 25.10.1972 & Post Graduate (PGT) Scale with effect from 19.07.1978.*
- II. To revise/grant leave kind due and grant all the increments granted by the Government from time to time to regular Govt. employee including annual increments that were stopped from 2001 onward.*
- III. To grant her 1st/2nd higher standard also 1st/2nd ACP: pay scale on completion of 10/20 years of her service.*
- IV. To pay the arrears of salary with interest @ 18% for 36 month proceeding the date of issue of Govt. letter dated 26.10.1995. Also pay the cost for causing harassment and mental agony to the petitioner.”*

(3) Through the impugned judgment rendered by a learned Single Judge of this Court all the afore quoted reliefs were denied to the appellant.

(4) Learned counsel for the parties have been heard.

(5) The appellant had knocked the doors of this Court seeking several reliefs which through the impugned judgment have been denied to her. However, at the time of hearing of the present appeal learned counsel for the appellant has pressed the present appeal only qua the finding returned by the learned Single Judge denying to the appellant higher pay scale on account of her acquiring a higher qualification on the ground that such qualification had been acquired by her before her services had been regularized.



(6) It is not disputed that the qualification of B.A. Part-I/Inter Examination, on the basis whereof the appellant seeks to be placed in the higher pay scale in terms of instructions of the Punjab Government dated 23.07.1957 (which were later applied to the State of Haryana), was acquired by her on 13.06.1972. Thus, the same was before she became a member of service which was on 24.09.1980. Therefore, no benefit thereof could be derived by the appellant.

(7) The afore view of ours is fully supported by the law laid down by the Supreme Court in ***State of Haryana Vs. Sumitra Devi and others, (2004) 12 SCC 322***, wherein it has been held as follows :-

“4. In Wazir Singh (supra), the writ petitioners therein prayed for a grant of higher scale of pay as they had acquired higher qualifications while working as teachers. This Court having regard to the aforementioned circular dated 9th March, 1990 came to the conclusion that a higher scale of pay is not automatically admissible as the State had altered their earlier policy. Keeping in view the changed situation this Court did not follow its earlier decision in Chaman Lal v. State of Haryana [1987] 3 SCC. However, having regard to the concession made by the learned counsel for the State of Haryana, this Court directed, 'all those who have acquired B.T. B.Ed. before 9.3.1990 would be entitled to get higher scales of pay in terms of para 2 of the composite Punjab Government letter dated 23.7.1957'. In Kamal Singh Saharawat (supra) a Bench of this Court considered the decision rendered in Wazir Singh (supra) and a large number of other decisions and came to the conclusion, 'thus it is seen, that there is no judgment of this Court holding that Teachers acquiring postgraduate qualifications or qualifications prescribed for the post of Lecturers would automatically be entitled to scales of pay applicable to the Lecturers on acquiring such qualifications without being appointed as Lecturers in accordance with the rules.' The respondents herein were appointed after 1957. They were appointed in the posts of masters and minimum qualification was matriculate. They have acquired the

degree or diploma much prior to their appointment as would appear from the following chart set out at page C.

Name	Date of Adhoc appointment	Date of regularisation	Year of passing Prabhakar
Sumitra Devi	26.10.1983	1.11.1986	1975
Sumitra Devi	26.09.1983	1.11.1986	1980
Chandra Wati	01.09.1982	1.11.1986	1978
Krishna	19.08.1983	1.11.1986	1977
Shakuntala Devi	01.09.1982	1.11.1986	1975
Chaman Devi	22.10.1983	1.11.1986	1978

5. It is, therefore, not a case where the petitioner had acquired a qualification prior to 9th March, 1990 while acting as teachers of masters. The circular letter dated 9th March, 1990 clearly states that a higher scale of pay would not be admissible to them despite holding a higher qualification having appointed on a lower post such a higher scale of pay was admissible only to such teacher/masters who had enhanced their educational qualification during the course of service. The petitioners, therefore, were not entitled to higher scale of pay. The learned counsel for the respondents submitted that keeping in view the fact that persons having similar qualification are getting higher scales of pay and as such this Court should not interfere with the impugned judgment. The submission of the learned counsel cannot be accepted for more than one reason. As the persons who have been granted higher scales of pay enhanced their qualification while holding their offices they had been allowed to continue to get a higher scale of pay in view of the concession made by the learned counsel appearing on behalf of the State. This Court both in Wazir Singh (supra) and Kamal Singh Saharwat (supra) as indicated hereinbefore in no uncertain terms held that even such holders of such offices would not automatically be entitled, on acquisition of a highest qualification as higher scale of pay. The petitioners, as noticed, already had higher qualification and thus not entitled to benefit of any circular whatsoever. Unfortunately, this aspect of the matter have not been taken into consideration by the High Court. Furthermore, even an



LPA No.202 of 2019 (O&M) [5]

order cannot be passed under Article 142 of the Constitution of India which will be contrary to the Statute or statute of the Rule.

6. Thus in this view of the matter that any teacher who was granted this pay scale was only those JBT teachers who were entitled to have a higher pay scale if they acquired qualification during the period of their service not prior to joining of the service.”

(8) In the light of the above discussion, we find no error, factual or legal, in the impugned judgment.

(9) Dismissed.

(10) All pending miscellaneous applications, if any, also stand disposed of.

**(DEEPAK SIBAL)
JUDGE**

21.08.2024
sunil yadav

**(DEEPAK MANCHANDA)
JUDGE**

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