

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-1573-1995 (O&M)

Date of decision: 20.04.2024

Subash Chander Chugh and others

..Petitioners

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vikas Kumar, Advocate for the petitioners.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY, J (Oral)

1. The prayer made in the present petition is for directing the respondents to grant the petitioners advance increments from the date of their acquiring the post graduate qualification and fix the pay accordingly.
2. Learned counsel contends that the petitioners were teachers, appointed in different Government schools in the state of Punjab. The Government passed instructions on 23.07.1957, whereby their pay scales were revised on the basis of qualification and advance increments were to be granted. However, they were denied on the premise that vide letter dated 19.02.1979, the same was restricted to those appointed or acquiring post graduation qualification before the cut off date i.e. 19.02.1979.
3. Learned State counsel submits that the Government, via letter dated 19.02.1979, withdrew the instructions dated 23.07.1957, thereby limiting the grant of the advance increments to those who were appointed or acquired the post graduation qualification before 19.02.1979, thus the petitioners are not entitled to the same, since such qualifications were acquired by them after issuance of said letter. Further that, in the index reliance has been placed by the petitioners upon CWP-431-1995, **Ram Nath and others vs. State of Punjab and another**, stated to be similar to the present case, which stands dismissed by this Court vide order

dated 22.04.2009, in view of **State of Punjab vs. Joga Singh**, 1997 (8) SLR 706, and **Kanwaljit Kaur vs. State of Punjab**, 1996 (1) RSJ 313, wherein it was observed that petitioners joining service or acquiring post graduate qualification after 19.02.1979 are not entitled to the benefit of advance increment. The relevant paras of **Joga Singh** (supra) read thus:

“10. From the facts stated herein above, it is clear that the Government of Punjab changed its Policy of granting higher pay scales from the date of acquisition of higher qualifications vide the instructions contained in the circular, dated 19th February, 1979, the relevant portion from which has been reproduced herein before. In terms of the aforesaid instructions, the teachers who were appointed on lower posts after 19th February, 1979 with higher qualifications and also those teachers who were already serving and acquired higher qualifications after February, 1979 were not entitled to automatic grant of higher pay scales. In the case of *Wazir Singh* (supra), the Supreme Court has held that the judgment of the Apex Court in *Chaman Lal's case* (supra) will have no application where the government has altered their Policy. Thus, it was held by the Apex Court that the Government could alter the Policy. In fact, the Hon'ble Supreme Court in the case of *Wazir Singh* (supra) has explained the scope of their earlier decision in the case of *Chaman Lal* (supra) and have clearly held that the teachers could not claim the benefit of higher pay scales automatically on acquisition of the higher qualifications but could claim such benefit only in accordance with the new Policy which, in the present case, is contained in the Circular dated 19th February, 1979. Relying on the judgment of the Supreme Court in *Wazir Singh* (supra) a Division Bench of this Court in the case of *Kanwaljit Kaur* (supra) has also observed that the view taken by the learned Single Judge in his judgment in the case, *Joga Singh v. State of Punjab*, C.W.P. No. 11995/1989 (impugned in these appeals) is not the correct law in view of the law laid down by the Apex Court.

11. For the reasons recorded herein above. We are of the opinion that the view taken by the learned Single Judge in the impugned judgment does not represent correct law in view of the law laid down by the Apex Court in the case of *Wazir Singh* (supra). Accordingly, we allow L.P.A. Nos. 374, 1137 and 933 of 1994, L.P.A. Nos. 44, 46 and 470 of 1995 and set aside the impugned judgment, dated 13th October, 1993, passed by the learned Single Judge in C.W.P. Nos. 11995 of 1989, 1167 of 1989 and 4515 of 1986. We further hold that the writ petitioners who have joined service after 19th February, 1979 or have improved their qualifications after issue of the letter dated 19th February, 1979 shall not be

entitled to the benefit of higher pay scales automatically and they shall be entitled to the benefit of higher pay scales only in accordance with the new Policy contained in the Circular; dated 19th February, 1979. The parties are, however, left to bear their own costs.”

4. Learned counsel for the petitioners, has not been able to draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
5. In wake of the aforesaid, the present petition is dismissed in terms of the judgments passed in **Joga Singh** and **Ram Nath** (supra).

20.04.2024
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(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No