

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-16764-1998 (O&M)
Date of decision: 30.04.2024

Prem Rani ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Saksham Mahajan, and
Ms. Shruti Singla, Advocates for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed for directing the respondents to grant the revised pay scale of Hindi/Punjabi Teacher in accordance with qualification to the petitioner.
2. Learned counsel would submit that the petitioner, who was working as JBT Teacher from 01.12.1961 on permanent basis, passed her Parbhakar examination from Panjab University, Chandigarh on 28.01.1966, thereby, was entitled to higher pay scale on the basis of her qualification as per circular dated 23.07.1957. Thereafter, Instructions dated 07.08.1985 were issued granting the grades to those who enhanced their qualifications after the issuance of letter dated 23.07.1957, whereafter vide fresh Notification dated 17.02.1989, the pay scale was revised entitling her to Sr. No.5 as granted to C&V Teachers i.e. Punjabi/Hindi/Urdu/Sanskrit teachers. Reliance is placed judgments of **State of Punjab vs. Kirpal Singh Bhatia**, (1975) 4 SCC 740; **Chaman Lal vs. State of Haryana**, (1987) 3 SCC 113; **State of Haryana and others vs. Sumitra Devi and others**, 2004(1) RSJ 552; **Om Parkash Mittal and others vs. State of Haryana and others**, CWP-14214-1994, decided on 03.12.2013.

3. Hon'ble the Supreme Court in **Kirpal Singh Bhatia** (supra) upheld the decision of this Court, whereby, promotion was granted on seniority cum merit basis and revised pay scale from when the qualifications were attained, the relevant paras thereof read thus:

“13. The High Court rightly referred to the letter of the Secretary of the Department dated 24 September, 1957 that teachers holding B. A., B.T./B.A., B. Ed. qualifications would henceforth be placed in category 'A'.

14. The High Court rightly came to the conclusion that the scale of pay of Rs. 110-250 would be effective either from the date when the teachers would pass the examination of Bachelor of Teaching or its equivalent on 1 May, 1957, whichever is later. The High Court, however, gave the teachers the scale of salary confined to a period of 3 years and 2 months counting back from the date of the presentation of the writ petition. In other words, the High Court did not allow the teachers any claim prior to 1967.

15. The letter dated 7 November, 1958 was necessary because in spite of the revised grade of Rupees 110-250 having been granted to Bachelor in Teaching or equivalent thereof, they were not being appointed by process of promotion to the posts of Masters. The letter stated that

"selection is to be made on the basis of seniority-cum-merit, due regard being paid to good reputation regarding character, popularity among students and parents and capacity to maintain discipline".

The respondents claimed that according to the letter those of them who were Bachelor in Teaching or Bachelor in Education were entitled to be appointed to the posts of Masters. The teachers could not claim vacancies by promotion exceeding 25 per cent. Their claim for appointment by promotion had to take into consideration not merely their seniority but also their merit. This percentage of 25 as fixed by the letter is covered by Rule 7 (ii) and the principle of selection for appointment is covered by Rs. 7 clause (iii). Therefore, the earlier letter dated July 23, 1957 fixed the scale of pay on the basis of academic qualifications. The subsequent letter dated 7 November, 1958 recognised the right of promotion to the posts of Masters to the extent of 25 per cent.

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19. The third conclusion which the High Court arrived is correct that the teachers were to be considered for appointment to the posts of Masters to the extent of 25 per cent quota as recognised for their category of teachers on the basis of seniority-cum-merit without being subjected to condition of subject combination.”

4. In the case of **Chaman Lal** (supra), Hon'ble the Supreme Court, while overturning the decision of this Court, directed that teachers acquiring B.T./B.Ed. qualifications should receive the higher grade from their respective qualification dates.

5. Reference has been made to **State of Punjab and others vs. Suresh Chander and others**, LPA-893-1994, decided on 14.11.1994, against which SLP was dismissed on 30.04.2003, ordering status quo, relevant para whereof reads thus:

“Though elaborate submissions have been made after making extensive reference to the historical background of the problems in these appeals and the various judicial pronouncements governing the matters under consideration, in our view, the issues involved for determination stood already finally and firmly settled by the decisions of this Court reported in State of Punjab and another vs. Kirpal Singh Bhatia and others, 1975(4) SCC 740, Punjab Higher Qualified Teachers and others vs. State of Punjab and others, 1998 (2) SCC 407, Chaman Lal and others vs. State of Haryana, 1987 (3) SCC 113 and Wazir Singh, JBT Teacher and others vs. State of Haryana thr. Its Secretary, Education Department and others, 1995 Supp. (3) SCC 697. In the light of the principles laid down therein, no exception whatsoever can be taken, in our view, to the decision arrived at in all these cases by the High Court. We see no merit in these appeals. The appeals shall stand, therefore, dismissed. No costs.”

6. In the case of **Om Parkash Mittal** (supra), the claims of the petitioner were similar to those in the present petition, which reads thus:

“5. The Apex Court in **Sumitra Devi's** case (supra) has held that J.B.T. Teachers were entitled to higher pay-scales only if they acquired qualifications during the period of their service and not prior to joining of the service. This exercise, necessarily, has to be carried out by the authorities.

6. Accordingly, a direction is issued to respondent No.3 to look into the cases of the petitioners and take a decision as to whether they are entitled to the said benefit, as laid down by the Apex Court in **Sumitra Devi's** case (supra) and even in **Wazir Singh Vs. State of Haryana** AIR 1996 (SC) 889 and **State of Haryana & others Vs. Hem Lata Gupta** 2010 AIR (SC) 629. In case the petitioners fall within the parameters of the said cases and are entitled for the said benefits, they shall be granted the requisite financial/pensionary benefits, within a period of two months from the receipt of a certified copy of this order. In case any of the petitioners are not entitled for the said relief, those persons shall be given a hearing before any

adverse orders are passed against them. Needful be done within 3 months from the receipt of the certified copy of this order.”

7. Learned State counsel, despite his best efforts, has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

8. As a consequence, the present petition is disposed of in terms of the judgments passed in **Kirpal Singh Bhatia, Chaman Lal and Om Parkash Mittal** (supra).

30.04.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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