

CWP-501 of 1995

2024-PHHC:104058



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

CWP-501 of 1995

Reserved on: 25.07.2024

Pronounced on: 12.08.2024

Arun Prabha

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Shreesh Kakkar, Advocate,
for Mr. Kapil Kakkar, Advocate, for the petitioner.
Mr. Rajesh Sehgal, Addl. A.G., Punjab.

NAMIT KUMAR, J.

1. Instant writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus*, directing the respondents to grant higher pay scale as per the qualifications possessed by her, in view of the Punjab Government Instructions dated 23.07.1957 (Annexure P-4).
2. Brief facts as have been pleaded in the petition are that the petitioner was appointed as JBT teacher on 02.05.1987 on aided post of J.B.T. in Arya Girls Primary School, Abohar (respondent No.4). She passed her JBT two years course from Punjab Education Department in 1976-78 and passed her B.A. Part-I examination from the Punjabi University, Patiala, in April, 1978. The State of Punjab, vide letter dated 23.07.1957, revised the pay scales of low paid Government servants, including teachers w.e.f. 01.05.1957. Petitioner has prayed for issuance of directions to the respondents to grant her higher pay

CWP-501 of 1995

2024-PHHC:104058



scale in view of Punjab Government instructions dated 23.07.1957 (Annexure P-4). Hence, the present writ petition.

3. The petition was admitted on 11.01.1995. Respondents No.1 to 3 – State filed written statement stating therein that letter dated 23.07.1957 was superseded by Government of Punjab vide letter dated 19.02.1979 (Annexure P-5) wherein it was decided that teachers appointed after 19.02.1979 or acquired higher qualification after 19.02.1979, were not entitled/eligible for grant of higher grades on the basis of higher qualification. Petitioner was appointed as teacher w.e.f. 02.05.1987 i.e. after 19.02.1979, therefore, she is not eligible for grant of higher grade on the basis of higher qualification.

4. Learned counsel for the petitioner contended that action of the respondents in not granting the higher pay scale to the petitioner is totally illegal and discriminatory. He further contended that action of the respondents in fixing 19.02.1979 as dividing line for extending the benefit of higher pay scales between the persons of same cadre has no rationale and violative of Articles 14, 16 and 39(d) of the Constitution of India.

5. On the other hand, learned State counsel submitted that present case is squarely covered by the Division Bench judgment of this Court in *The State of Punjab and others v. Joga Singh and others, 1997(8) SLR 706*, wherein it has been held that State can alter its policy, which the State has done by altering its policy of year 1957 to that of year 1979. Therefore, the claim of the petitioner is liable to be rejected.

CWP-501 of 1995

2024-PHHC:104058

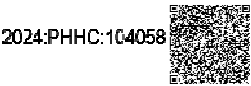


6. I have heard learned counsel for the parties and perused the record.

7. Admittedly, the claim of the petitioner seeking higher pay scales is based upon Punjab Government Instructions dated 23.07.1957. And the said instructions has been superseded by Government of Punjab vide letter dated 19.02.1979, whereby it was categorically decided that the teacher who have been appointed or acquired higher qualification after 19.02.1979 will not be eligible for the grant of higher grades on the basis of higher qualification acquired by them. Petitioner was appointed as Teacher w.e.f. 02.05.1987 i.e. after 19.02.1979 and, therefore, is not entitled for the grant of higher grade on the basis of her higher educational qualification. A perusal of the file record would show that the instructions dated 23.07.1957 is not applicable to the employees of privately Managed recognized Aided schools as the said schools were taken on Delhi pattern Grant-in-aid scheme with effect from 01.12.1967 which itself proves that the letter dated 23.07.1957 was neither intended for the teachers of privately Managed recognized Aided schools at the time of its issuance nor it was made applicable to them w.e.f. 01.12.1967.

8. The issue involved is whether the petitioner is entitled for higher grades in view of acquiring higher qualification in view of instructions dated 23.07.1957 (Annexure P-4)? The issue is no longer *res integra* as the same has been decided by a Division Bench of this Court in the case of ***Joga Singh (supra)***, wherein it has been held that the State can alter its policy which the State has done by altering the

CWP-501 of 1995



policy of 1957 to that of 1979 and the Division Bench relied on the judgment in the case of **Wazir Singh & others v. State of Haryana & others, AIR 1996 (SC) 889** and further held that the teachers could not claim the benefit of higher pay scales automatically on acquisition of higher qualifications but could claim such benefits only in accordance with the new policy which in the present case is contained in circular dated 19.02.1979. It was further held that the writ petitioners therein who have joined service after 19.02.1979 or have improved their qualification after issuance of letter dated 19.02.1979, shall not be entitled to the benefits of higher pay scale automatically and they shall be entitled to the benefit of higher pay scale only in accordance with new policy contained in 19.02.1979. The petitioner passed her JBT Course in 1976-78 and passed her B.A. Part-I Examination in April, 1979. The petitioner had joined as JBT Teacher in the year 1987 and hence, the judgment in the case of **State of Punjab v. Joga Singh (supra)** clearly applies to the case of the petitioner.

9. To the same effect is the judgment of this Court in the case of **Surinderjit & others v. State of Punjab & others, 2013 (3) SCT 75.**

10. In view of the above, present writ petition, being devoid of merit is hereby dismissed.

12.08.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No