

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

CWP-3517-1997 (O&M)
Date of Decision : 18.04.2024

Nimyanti Devi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mahabir Singh Tanwar, Advocate for
Mr. A.S. Tewatia, Advocate for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the petitioner is claiming the grant of scale as admissible to the post of Lecturers by placing reliance upon the Instructions dated 23.07.1957.
2. Learned counsel for the petitioner submits that once the petitioner is qualified for the post of Lecturers, she is entitled for the grant of benefit of the pay scale for the said post even while working on a lower post.
3. Learned counsel for the respondents, on the other hand, submits that the 1957 Instructions never dealt with the grant of higher pay scale to the Lecturer as the post of Lecturer was first time created in the year 1963-1964. Learned counsel for the respondents further submits that

while working on the post of master and mistress, the Lecturer's pay scale cannot be claimed without the promotion to the said post and the reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 4714 of 2006 titled as ***State of Haryana and others Vs. Hem Lata Gupta and others***, decided on 05.01.2010.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The only grievance raised in the present petition is that once the petitioner has gained higher qualifications, which have been prescribed for the post of Lecturer, she is entitled for the grant of pay scale even if her substantive rank is of Mistress. The said issue has already been decided by the Hon'ble Supreme Court of India in ***Hem Lata Gupta (supra)***, wherein, the Hon'ble Supreme Court of India has held that unless and until an employee gets promotion to the post of Lecturer, mere acquiring of the qualification required to be appointed as a Lecturer/promoted as a Lecturer, the higher pay scale as admissible to the Lecturer cannot be claimed while working on another post. The relevant paragraph of the said judgment is as under :-

“23. Thus a perusal of the Educational Service Rules which have been prevailing from 1955 undergoing amendments from time to time and the subsequent government policy letters and circulars show that the Teachers are not entitled to higher scales of pay applicable to the posts of Lecturers automatically on their acquiring postgraduate qualifications or such qualifications as are prescribed for the post of Lecturers. We have already pointed

out that the post of Lecturers has throughout been governed by different sets of rules and never by the Punjab Educational Service Class III School Cadre Rules, 1955 or the amendments thereto. Hence, the common question raised in these matters has to be answered in the negative against the Teachers/Masters/Mistresses some of whom are respondents in Civil Appeal No. 4304 of 1990 and the others being petitioners in SLPs and appellants in Civil Appeal No. 2104 of 1998.”

6. Learned counsel for the petitioner has not been able to differentiate that the claim being raised in the present petition, has already been rejected by the Hon’ble Supreme Court of India while passing order in ***Hem Lata Gupta (supra)***.

7. No ground is made out for the grant of relief as being claimed in the present petition.

8. Dismissed.

Pending miscellaneous application, if any, also stands disposed of.

April 18th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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