



CWP-387-1999 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-387-1999 (O&M)
Date of Decision: 30.05.2024

Mukhtar Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioner.

Mr. Arun Gupta, DAG, Punjab

AMAN CHAUDHARY, J. (Oral)

1. The prayer made in the present petition, which was filed in the year 1999, is for directing the respondents to extend the benefit to the petitioner, of the law laid down in the judgment rendered in **Nand Lal Sharma and others vs. State of Punjab and another¹**, allowing change of option for revised pay scales with effect from 01.10.1978, the relevant paras of which read thus:

“Petitioner Nand Lal and thirty others who have jointly filed Civil Writ Petition No. 18380 of 1994 were/are working as Art and Craft Teachers, Physical Training Instructors, Social Studies Masters, Lecturers, Drawing Teachers and Language Teachers in the Government Senior Secondary, High and Middle schools in the State of Punjab. They became entitled to have their pay fixed under the Punjab Civil Services (Revised Pay) Rules, 1988, which were promulgated by the Punjab Government vide notification dated 9.9.1988. The mode of fixation of pay was specified in the Rules and all the existing employees were

¹ CWP-18380-1994, decided on 21.11.1995.



given opportunity to exercise the option under Rule 5 of the 1988 Rules. The petitioners exercised their option under Rule 5 and accordingly their pays were fixed.

The petitioners and others had also filed cases before this Court for grant of selection grade and on the basis of decision of this Court, the petitioners were given the benefit of selection grade as would appear from the letter dated 14.5.1993 written by the District Education Officer (Schools) Patiala to the Principals/Head Master/Head Mistresses of Government Senior Secondary/High Schools, Patiala. The petitioners represented the Government for being allowed to exercise their option afresh but the departmental authorities did not take any action for permitting the petitioners to exercise revised option. The petitioners have claimed that in Civil Writ Petition No.2587 of 1994 (Haranbir Singh v. State of Punjab and others) this Court has accepted the claim made by the similarly situated persons and, therefore, they should also be given an opportunity to exercise their revised option.

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Although it is true that the petitioners had exercised their options after coming into force the Rules of 1988, but due to changed circumstances, the petitioners became entitled to be given an opportunity to revise their option. A similar claim was made by the petitioners in Civil Writ Petition No. 2587 of 1994 (S. Karanvir Singh and others v. State of Punjab and another). While accepting the writ petition, the Court noted that the persons similarly situated, namely, Shri Gurmit Singh and Smt. Ramesh Kumari were allowed to change their option by government by exercise of the power under Rule 12 of the 1988 Rules. After taking note of the action of the departmental authorities, the Court held:-

"Having heard the learned counsel for the parties and after going through their pleadings, we find that similarly situated employees like the petitioners were allowed to change their options on the ground that the earlier option exercised by them was resulting in hardship and financial loss to them. The petitioners too were claiming that the earlier option exercised by them was resulting in financial loss and hardship to them. There was no justification on the part of the respondents in discriminating the petitioners and not allowing them to change the option when the same relief was given to others who were similarly placed."



On the basis of above conclusion, the Court directed the respondents to permit the petitioners in Civil Writ Petition No. 2587 of 1994 to change their option in the revised pay-scale after relaxing the existing Rule as was done in the cases of Shri Gurmit Singh and Smt. Ramesh Kumari.

When other similarly situated persons have been given permission to revise their option either by exercise of power under Rule 12 to relax the provisions of 1988 Rules or under the Court orders, there remains no justification for not giving similar opportunity to the petitioners. As a welfare State, it was expected of the Government to have given similar opportunity to those employees who got benefit of the selection grade after they had exercised their option. under the Rules of 1988. In their cases also due to the changed circumstance, namely, grant of selection grade after they had exercised option under 1988 Rules, financial hardship would be suffered by them and, therefore, the Government should have exercised the power under Rule 12 in all similar cases instead of compelling the individuals to approach the Court for issue of similar direction. In our opinion, failure of the respondents to pass appropriate order permitting the petitioners to revise their options is without any justification. It must, therefore, be held that the petitioners have been discriminated viz-a-viz similarly situated persons.

In the result, all the writ petitions are allowed. The respondents are directed to allow the petitioners to revise their option under the Rules of 1988. If for this purpose, it becomes necessary the Government should pass order under Rule 12 for relaxation of relevant Rule regarding exercise of option and its finality. Necessary order should be passed by the competent authority within three months of the submission of the certified copy of this order.

Keeping in view the fact that there may be many other similarly situated persons, we deem it proper to direct the respondents in general and respondent No.2 in particular to give similar opportunity to exercise revised option to other persons so that they may not be compelled to approach this Court and thereby unnecessarily add to the ever increasing number of cases. Such a course would also be in a large public interest and would save public exchequer from the expenses etc. which are required to incurred for defending the cases in the Court.”

(Emphasis Supplied)

2. Learned State counsel, despite his best efforts, has been unable to



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controvert the factual position and draw out any distinctive aspects in the
aforementioned judgment or cite any contrary law.

3. In view of the aforesaid, the present petition is disposed of in terms
of **Nand Lal Sharma** (supra).

4. The Registry is directed to send a copy of the judgment to
respondents for compliance.

(**AMAN CHAUDHARY**)
JUDGE

May 30, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No