



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.205

CWP-6667-1999
Date of Decision: 15.07.2024

Sugan Pal and others
Versus
.... Petitioners

State of Haryana and others
... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ravi Verma, Advocate for the petitioners.

Mr. Pankaj Middha, Addl. A.G. Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a direction to the respondents to grant one increment to the petitioners under Rule 4.4 (a) (i) of the Punjab Civil Services Rules, Volume I, Part I (for short, 'the Rules') on account of being assigned higher responsibilities on promotion to the post of Master/D.P.E./Head Teacher/Lecturer, as also for quashing of order dated 20.02.1998, Annexure P-3, passed against petitioner no.1, and similar orders passed in case of other petitioners, whereby they have been denied the benefit at the time of pay fixation in the revised pay scale introduced with effect from 01.01.1996.

2. Facts of the case in brief are, the petitioners were initially appointed as JBT Teachers in the Education Department, and were given Master's grade on acquiring higher qualifications of B.A., B.Ed. in terms of the government instructions, dated 23.07.1957. Later, they were promoted as Masters/Lecturers/Head Teachers between 28.04.1986 to 01.06.1997, as per details given in para 2 of the petition. On promotion they were given higher responsibilities, as prior to promotion they were teaching primary classes up to fifth standard, and after promotion they were to teach higher classes from



sixth to tenth standard. Accordingly, they were granted benefit of one increment under Rule 4.4 (a) (i) of the Rules; only one such order *qua* petitioner no.1 dated 23.10.1996, has been appended as Annexure P-1, as similar orders have been passed in case of other petitioners. In 1998, the Government revised the pay scales for its employees, including teachers, with effect from 01.01.1996 as per the recommendations of Fifth Pay Commission; pay scales of Masters/DPEs/Head Teachers were revised, and the petitioners, who were working as Masters/DPEs/Head Teachers in the functional pay scale of ₹1400-2600 (pre-revised) were placed in the pay scale of ₹5500-9000 with effect from 01.01.1996. While doing so, however, the benefit of one increment *in lieu* of their promotion to the post of Master/DPE/Head Teacher, which had already been given to them from the date of promotion in the pre-revised pay scale, was withdrawn, as apparent from the revised pay fixation order dated 20.02.1998. The petitioners have challenged this withdrawal of one increment by filing the instant petition, claiming it to be arbitrary and illegal.

3. Learned counsel for the petitioners has relied upon the law laid down by Division Bench of this Court in *Swaran Singh v. State of Haryana*, 2002(2) S.C.T. 313, along with connected petitions. The facts of the case(s) were similar to the case at hand, as the petitioner(s) therein were working as JBT Teachers, and on promotion as Head Teachers were granted the benefit of one increment under Rule 4.4 (a) (i) of the Rules for having assigned higher responsibilities. On revision of pay scales, the benefit of one increment had been ignored/withdrawn, which was held illegal and arbitrary.

4. Learned State counsel has, however, opposed the petitioners' claim by arguing that even after promotion as Masters/DPEs/Head Teachers, no higher responsibilities were given to the petitioners as they had to teach the students, whether they were of fifth or tenth standard. Theirs is not an



administrative post, and does not involve any higher responsibility. Accordingly, they would not be entitled to one increment under Rule 4.4 (a) (i) of the Rules.

5. Heard.

6. Facts of the case are not in dispute, as the petitioners, who were working as JBT Teachers, were granted promotion to the higher post of Master/DPE/Head Teacher in the pay scale they were already working, as the same had been given to them based on their higher qualifications. Being in the same pay scale of ₹1400-2600, they were given the benefit of one increment under Rule 4.4 (a) (i) of the Rules at the time of promotion, vide order dated 23.10.1996. The same was, however, withdrawn/ignored at the time of refixation of pay in the revised pay scale of ₹5500-9000 with effect from 01.01.1996, vide separate orders passed by the Department; one such order is dated 20.02.1998. Law in this regard is already settled that once increment has been given to an employee on assumption of higher responsibilities, the government was liable to take it into account at the time of fixation of pay in the higher scale, and fix the pay on that basis. This has been held in *Swaran Singh* case (*supra*); relevant paragraphs whereof read as under:

6. The controversy in the present case is a very narrow compass inasmuch as the promotion of the petitioners is not disputed to the post of Head Teachers. Nothing has been placed by the respondents on the record to show that the post of Head Teacher in comparison to J.B.T. Teacher does not carry higher responsibilities. The petitioners were actually working as Head Teachers for all this period is also not disputed and in fact it is conceded that they were given the benefit of Rule 4.4. in the pay scales as on 1.1.1996. The pay scale of Head Teacher is



1400-2660. A Division Bench of this Court in the case of *Sunder Lal Jain and others v. State of Haryana and others*, 1995 S.L.R. 215: 1995(1) SCT 564 held that the persons who were working as Junior Lab. Attendant were required to be promoted to the post of Senior Lab. Attendant, were entitled to the higher pay scales than the one which they were getting on a post from which they had been promoted.

7. Rule 4.4 (supra) has been subject matter of scrutiny by earlier occasions as well. A Division Bench of this Court in the case of *Lal Singh v. State of Punjab* had granted relief to the persons similarly situated alike the petitioners. The judgment in Lal Singh's case was appealed by the State before the Hon'ble Supreme Court. The Hon'ble Supreme Court modified the order of the High Court passed in the case *State of Punjab v. Lal Singh*, after taking into consideration the ambit and scope of Rule 4.13 and held as under :-

"A reading thereof would clearly indicate that initial substantive pay of a Government employee who is appointed substantively to a post on a time-scale of pay, is regulated, if he holds a lien on a permanent post, other than a tenure post and when appointed to the new post involves the assumption of duties or responsibilities of greater importance, then he will draw as initial pay the stage of the time scale next above his substantive pay in respect of the old post. Thus, it could be seen that when JBT Teacher was appointed temporarily as a Head Teacher, he is entitled to draw, since he is holding responsibilities of greater Importance as a Head Teacher, one advance increment in his old post in the time scale next above



the substantive pay on the date of his temporarily promotion as a Head Teacher.

The appeal is accordingly allowed. The order of the High Court stands modified. They are entitled to one advance increment in the scale of JBT Teacher at the time of promotion while discharging the duties as Head Teachers. No costs."

8. It would be useful to mention here that following the principle enunciated by the Apex Court in Lal Singh's case (supra) the Division Bench of this Court granted the relief to the petitioners who were similarly situated. Reference can be made to *Shiv Kumar and others v. State of Haryana and another, Civil Writ Petition No. 11495 of 2000, decided on August 30, 2000; Veena Kumari and others v. State of Haryana and others, 2000(4) RSJ 341; 2000(4) SCT 1038 (P&H) (DB) and Sudarshan v. State of Haryana, 2001(2) SCT 243.*

9. The consistent view of the Hon'ble Apex Court as well as various judgments of this Court is that once the increment was given to the employee on assumption of higher responsibilities of teachers and administration, then Govt. is liable to take into consideration the said increment for fixation of pay in the higher scale.

10. The facts in the present case as already noticed are hardly in dispute. The petitioners were actually promoted and granted one increment as the Head Teachers post carry higher responsibilities. The benefit granted to them could not be withdrawn to their disadvantage because the pay scales were revised. The increment was attached to the performance of the function of the higher post with higher responsibilities and



could not be withdrawn just because there was revision of pay scales. The impugned order passed by the respondents is based upon wrong assumption of law. The concerned authority ought to have taken into consideration the relevant factors and decided the matter in the light of the judgments of the Hon'ble Apex Court and different Division Benches of this Court as referred to above.

7. Similar view was taken by another Division Bench of this Court in *Ram Swarup and others v. State of Haryana and others*, 2001(2) RSJ 153, wherein while allowing the petition, one additional increment was granted to the petitioners under Rule 4.4 (a) (i) of the Rules on promotion as Masters. The argument advanced by the State was repelled by holding that on promotion as Master, it cannot be said that the teachers were not holding the post of higher responsibility; relevant paragraphs of the judgment read as under:

6. Otherwise also, the petitioners had been granted the higher pay scale on acquiring qualifications and later on when they were promoted as Master, under Rule 4.4. (a) (i) of the Rules, they were granted another increment. Higher pay scale was granted on the basis of instructions to avoid stagnation. This has nothing to do when the teachers were actually promoted as Masters. Both are independent of each other. The instructions were given effect to and once they were promoted subsequently, there is no escape from the finding that they were to be given the increment because they were promoted as Masters.

7. A feeble argument had been advanced on behalf of the State that when the petitioners were promoted as Masters, they

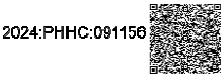


were not discharging the duties of higher responsibility and, therefore, they cannot take the benefit of Rule 4.4. (a) (i) of the Rules. We need not delve into the said controversy because answer is provided by the decision of this Court in Civil Writ Petition No.18303 of 1998 titled *Veena Kumari and others vs. State of Haryana and others*, decided on 25.7.2000. A similar plea was raised therein. We reproduce the findings in the said writ petition wherein the said contention of the State was negatived. It reads as under:-

"Learned counsel appearing on behalf of the State of Haryana urged that it is not a post of higher responsibility or duties and, therefore, the petitioners were not entitled to an increment. It was further urged that since the petitioners were to teach a higher class does not imply that they were holding the post of higher responsibility or duties.

Teaching by itself is of great responsibility. It is the teachers who bring up the youngsters as good citizens. The future of any nation depends as to how the teachers teach. But teaching of higher classes unless there is something to the contrary would ordinarily be of higher responsibility.

The position herein as is apparent from the plea of the respondents is that earlier the petitioners were teaching to Class 1 to 5. As Social Study Masters, they were teaching class 6th to 10th. Therefore, they must be taken to be holding the post of higher responsibility. This is also apparent from the fact that the scale of J.B.T. teachers is lower than that of the post of Social Study Master. That is why the State has provided the higher scale for Social Study Master. To the same effect was the



decision of this Court in the case of Lekh Raj Khera and others vs. State of Punjab and others, 1986 (3) Services Law Reporter 410 with which we respectfully agree. We must hold, therefore, that the petitioners in the present cases were promoted to a post of higher responsibility and duty. Consequently, they were entitled to the increment."

Keeping in view the aforesaid, the answer is clear and the contention of the State necessarily has to be rejected.

8. In view of the settled law, as aforementioned, the respondents could not have withdrawn/ignored the benefit of one increment granted to the petitioners under Rule 4.4 (a) (i) of the Rules with effect from 01.01.1996.

9. Accordingly, the petition is allowed, and the impugned order(s), dated 20.02.1998, is/are set aside holding the petitioners entitled to the benefit of one increment with effect from the date of their promotion as Master/DPE/Head Teacher. The respondents are directed to release all consequential benefits to the petitioners on that basis, including retiral benefits; the arrears shall be paid with interest at the rate of seven per cent per annum from the due date till the date of actual payment. These directions are to be carried out within eight weeks of receiving a certified copy of this order.

10. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

15.07.2024
Maninder