

CWP-8651 of 2024



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

CWP-8651 of 2024

Date of decision: 18.07.2024

Anju Ajmani

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Saurabh Bajaj, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

NAMIT KUMAR, J.

1. By way of present petition filed under Articles 226/227 of the Constitution of India, the petitioner has approached this Court seeking the following reliefs :-

i) Issuance of a writ in the nature of certiorari for quashment of re-fixation of pay of the petitioner dated 27.02.2024(Annexure P-17) vide which the pay of the petitioner has been re-fixed by withdrawing the benefit of ACP from the pay scale of the petitioner without any notice and on account of judgment 05.01.2021 (Annexure P-6) in CWP No. 11686 of 2004(main case), it was held that the ACP scheme (substitution of Higher Standard Pay Scale) would be applicable to the employees of Govt. schools only and not to the employees of Govt. Aided Schools, but it was nowhere held in the aforesaid



judgment that the Higher Standard Pay Scale which was applicable to the predecessor employees of Govt. Aided School has not been granted to the employees of Govt. Aided School, therefore, any withdrawal of benefit on account of the aforesaid judgment is arbitrary and unconstitutional;

ii) Further a writ in the nature of mandamus directing the respondent-authorities for implementing the instructions issued by the Govt. vide letter dated 22.10.2003(Annexure P-1C) for higher pay scale and further for implementing the instructions issued vide letter dated 16.07.2003 (Annexure P-7) to all the Govt. Aided Schools in the State of Haryana for giving the higher pay scale after 10-20 years of services as per the instructions of the Govt. and further give all the benefits of the aforesaid instructions of higher standard pay scale to the services of the petitioner during the govt. aided schools in the State of Haryana in view of the law settled by the Hon'ble Supreme Court of India in State of Haryana and others Vs. Champa Devi decided on 17.01.2002 (Annexure P-9);

iii) Further a writ in the nature of prohibitory restraining the respondent-authorities from implementing the refixation dated 27.02.2024 and further decreasing the



pay of the petitioner on account of the above said refixation dated 27.02.2024;

iv) Any other order, direction or relief which this Hon'ble Court deems fit and proper in the peculiar facts and circumstances of the case;

v) It is further prayed that during the pendency of the present petition, the respondents may kindly be restrained from withdrawing any benefit of ACP scales from the salary of the Petitioner.

FACTS

2. Petitioner was working in Govt. Aided School- P.K.R. Jain Girls Sr. Sec. School, Ambala, in the State of Haryana and has joined there on 29.08.1997 and thereafter she has joined Government School in District Ambala under the provisions of 'Haryana Voluntary Service Rules, 2017' notified on 09.08.2017. It has been pleaded that employees working in the Govt. Aided Schools were previously entitled for the Higher Standard Pay Scale, after the completion of 10/20 years service in terms of instructions dated 22.10.2003 issued by Haryana Education Department, Chandigarh based upon the directions issued by the Hon'ble Supreme Court of India in Civil Appeal No. 535 of 2002 titled as 'State of Haryana Vs. Champa Devi and others' decided on 17.01.2002. In the year 1998, the Government of Haryana vide notification dated 07.01.1998, introduced Assured Career Progression Rules, 1998 for Government employees and the same were not made applicable for the employees of the Govt. Aided Schools and



being aggrieved, the association of the employees of Govt. Aided Schools chosen to file CWP No. 11686 of 2004 titled as “Haryana State Adhyapak Sangh(Govt. Aided Private Schools) Vs. State of Haryana and others before this Court which was disposed of on 02.02.2011 in terms of the judgment passed in CWP No. 6220 of 2009 titled as “Haryana Private Colleges Non-Teaching Employees Union(Regd.) Vs. State of Haryana decided on 10.11.2010, whereby the benefit of ACP scheme was extended to the employees of Govt. aided schools. The aforesaid judgments dated 10.11.2010 and 02.02.2011 have been annexed at Annexures P-3 and P-4 respectively. Aggrieved by, State of Haryana had preferred Letter Patent Appeal before the Division Bench of this Court and the same was dismissed. Thereafter, Special Leave to Appeal was also filed against LPA Bench order and the same was dismissed in limine. Subsequently, a review petition No. 236 of 2016 was filed by the Govt. Aided Private School Management Associations on the ground that being effected party, they were not impleaded as party in the writ petition filed by the employees - Union. The said review application was disposed of vide order dated 14.07.2016 by the Hon’ble Supreme Court and the managements of the Govt. Aided Schools were granted opportunity of hearing against the judgment dated 10.11.2010 passed by this Court and the matter was remanded back to this Court for fresh decision in accordance with law. During the pendency of writ petition(s) (supra), the petitioner was appointed in the Govt. School in the State of Haryana on 29.01.2018 under the Haryana Voluntary Service Education Rules, 2017. Vide Judgment



dated 05.01.2021 passed in CWP No. 11686 of 2004 and other connected cases(the petitions which were remanded back), this Court held that the employees of Govt. aided schools and colleges are not entitled to the ACP Scheme as the same is different from the scheme of Higher Standard Pay Scales. It has been further pleaded that applicability of Higher Standard Pay Scale to the employees of Govt. Aided Schools was decided in the favour of the employees of Govt. aided schools by the Hon'ble Supreme Court in the case titled as "State of Haryana vs. Champa Devi" decided on 17.1.2002. The grouse of the petitioner is that since the predecessor employees of the Govt. aided schools have been granted the benefit of Higher Standard Pay Scales and, therefore, the petitioner cannot be discriminated for the same and cannot be denied the benefit as per the directions contained in the judgment of Hon'ble Supreme Court in Champa Devi's case (supra). Hence, this petition.

3. Learned Counsel for the petitioner submits that the pay of the petitioner has been refixed vide impugned order dated 27.02.2024 by withdrawing the benefit of Assured Career Progression Scheme without issuing any notice to her. He further submits that Higher Standard Pay Scales which was applicable to the predecessor employees of Govt. aided schools has not been granted to the petitioner including employees of Govt. aided schools. He further submits that respondents-authorities be directed to implement the instructions issued by the Govt. vide letter dated 22.10.2003 for higher pay scale in view



of the law settled by the Hon'ble Supreme Court in State of Haryana and others Vs. Champa Devi decided on 17.01.2002(Annexure P-9).

4. Per Contra, Learned State Counsel submits that the impugned order passed by the respondent-authorities is perfectly valid and sustainable in the eyes of law and the petition is required to be dismissed on merits.

5. I have heard Learned Counsel for the petitioner and State Counsel and given my thoughtful consideration to the issue in hand.

REASONING

6. Admittedly, the petitioner is challenging the order dated 27.02.2024, whereby her pay has been re-fixed after withdrawing the ACP benefit. It is not in dispute that the petitioner herself has stated in the petition that she has joined the Government Aided School on 29.08.1997 then, in such eventuality, no question of withdrawal of Higher Standard Pay Scale from his pay arises as the Assured Career Progression Scheme was already in force with effect from 01.01.1996 before her joining in Govt. aided school. In the entire petition, it is nowhere stated that the petitioner was getting Higher Standard Pay Scale after her joining. The challenge laid to the order dated 27.02.2024 is on the ground that her predecessors were drawing Higher Standard Pay Scale benefits prior to her joining and now since the ACP benefits have been withdrawn from the petitioner including employees of govt. aided schools as per judgment dated 05.01.2021 passed in CWP No. 11686 of 2004 being not entitled to, the petitioner has chosen to file the present petition for the grant of Higher Standard Pay Scale as



well. Petitioner has not been able to show her Locus to file the instant petition. Before approaching this Court, the petitioner has not even tried to approach the authorities concerned for implementation of Higher Standard pay scales. The period in issue for granting Higher Standard pay scale pertains to year 2005 to 2017 as she has joined the government school in year 2018. It is pertinent to note here that some employees of Govt. aided schools have laid challenge to the judgment dated 05.1.2021 passed by this Court in CWP No. 11686 of 2004 titled as “Haryana State Adhyapak Sangh Versus State of Haryana and others” before the Division Bench of this Court by way of LPA No. 67 of 2021 and other connected appeals, wherein State has been restrained from recovering the amounts already paid to the employees and the same is now pending for 30.09.2024. The petitioner who has not opted to join proceedings before the Writ Court and Appellate Court, appears to have missed the bus and now approached this Court in year 2024 for implementation of Higher Standard Pay Scales. The petitioner who has joined the Government School in year 2018 remained silent for long period for implementing the Higher Standard Pay Scales in Govt. aided schools after the judgment delivered by Learned Single Bench of this Court, vide dated 05.01.2021, cannot be countenanced with. There is no infirmity in the order dated 27.02.2024, passed by the respondents-State and the petition cannot be entertained at this belated stage. More so, the petitioner by way of challenging the order dated 27.02.2024 has tried to convince this Court for implementation of the Higher Standard Pay Scales in govt. aided schools for which she is not entitled to in



terms of judgment dated 05.1.2021 passed by this Court in CWP No. 11686 of 2004 and against which the appeal is pending.

7. In wake of the foregoing discussions, the present petition filed by the petitioner at this belated stage, is mis-conceived and the same is, accordingly, dismissed.

18.07.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No