

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

218

CWP-18511-2019
Date of decision: 15.05.2024

Oma Wati Sharma ...Petitioner

Versus

State of Punjab and Others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. M.K. Tiwari, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY. J (ORAL)

1. The prayer made in the present petition is for quashing of order dated 20.09.2018, Annexure P-3 and directing the respondents to release three advance increments to the petitioner for acquiring PhD qualifications and refixation of the pay and pension.
2. Learned counsel would contend that the petitioner, who had approached this Court in CWP-2858-2013, challenging the rejection of her claim for retention in the College Cadre on the ground of her having not passed the National Eligibility Test (NET), which was allowed vide judgment dated 08.04.2015, Annexure P-2, relevant para whereof reads thus:

“5. As is apparent from the pleadings and the assertions put forth by the counsel for the petitioner, the petitioner being a Ph.D. holder is not required to pass the National Eligibility Test, as per the U.G.C. Guidelines dated 30.06.2010 (Annexure P-5) and Instructions of the Punjabi University, Patiala dated 24.06.2011 (Annexure P-6). In the impugned order, the only ground, which



has been taken for rejecting the claim of the petitioner, is that she does not possess the requisite qualifications for appointment as Lecturer in Sanskrit and more emphasis has been laid upon her non-clearance of the NET, which in the light of the above, cannot be a ground for rejecting the claim of the petitioner.

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7. Petitioner's writ petition i.e. CWP No.9431 of 1992 was also allowed by this common order. It is not in dispute that the said judgment has attained finality. That apart the decision of the Division Bench, on which reliance has been placed by the counsel for the respondent i.e. **Hari Dutt's case** (supra) in the present facts and circumstances would not be applicable and in any case, the judgment, in which the claim of the petitioner falls, has already having attained finality, thus, the petitioner is entitled to the benefit of the same.

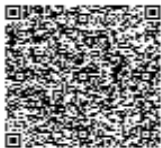
8. In view of the above, the present writ petition is allowed. Impugned order dated 10.07.2012 (Annexure P-3) is hereby quashed.

9. The consequential benefits be released to the petitioner within a period of three months from today.

3. Learned counsel further submits that the Hon'ble Supreme Court vide judgment dated 01.09.2015 in **Gurdas Singh and others vs. State of Punjab and others**, Civil Appeal Nos.6691-6692 of 2015 has not held that the benefit of increments for acquiring higher qualification of Ph.D, as claimed by the petitioner was not payable, thus, the respondents have wrongly rejected her case on the aforesaid premise alone.

4. Learned State counsel has not been able to justify the ground on which the impugned order was passed, therefore, on instructions, submits that the respondents would be not averse to having a relook at the matter, uninfluenced by the previous order dated 20.09.2018.

5. In view of the above and without commenting upon the merits of the case, this petition is hereby disposed of with a direction to the respondents to reconsider the claim of the petitioner, taking note of the submissions made and judgment passed in his case on 08.04.2015, Annexure P-2, within a period



of six months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner. Upon doing so, after notice and hearing offered to her and if found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to her interest, the same shall contain reasons and petitioner shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

15.05.2024
Hemant

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