



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 102)

- (1)

CM-16017-CWP-2023 in/and
CWP-18574-2011
Date of Decision : 29.07.2024
- Tarsem Singh and others

...Petitioners
- Versus
- State of Punjab and others

...Respondents
- (2)

CM-16714-CWP-2023 in/and
CWP-19184-2011
- Arvind Sharma and others

...Petitioners
- Versus
- State of Punjab and others

...Respondents
- (3)

CM-16712-CWP-2023 in/and
CWP-19994-2011
- Rupinderjit Kaur and others

...Petitioners
- Versus
- State of Punjab and others

...Respondents
- (4)

CM-17958-CWP-2023 in/and
CWP-20394-2011
- Amandeep Sharma and others

...Petitioners
- Versus
- State of Punjab and others

...Respondents
- (5)

CM-16183-CWP-2023 in/and
CWP-20749-2011

CM-16017-CWP-2023 in/and
CWP-18574-2011 and other connected cases

2024.PHHC.095643



Jasbir Singh and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(6) CM-17961-CWP-2023 in/and
CWP-23926-2011

Ram Dass and others ...Petitioners

Versus

State of Punjab and others ...Respondents

(7) CM-16711-CWP-2023 in/and
CWP-6091-2012

Avinash Kumar Jain and others ...Petitioners

Versus

State of Punjab and others ...Respondents

(8) CM-18840-CWP-2023 in/and
CWP-21143-2011

Gurnam Singh and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(9) CM-15641-CWP-2023 in/and
CWP-14084-2013

Manmohan Singh Sandhu and others ...Petitioners

Versus

State of Punjab and others ...Respondents

CM-16017-CWP-2023 in/and
CWP-18574-2011 and other connected cases

2024.PHHC.095643



(10)	CM-14774-CWP-2023 in/and CWP-18258-2011
Davinder Singh and others	...Petitioners
Versus	
State of Punjab and others	...Respondents
(11)	CM-14785-CWP-2023 in/and CWP-18458-2011
Rohit Kumar Mishra and others	...Petitioners
Versus	
State of Punjab and others	...Respondents
(12)	CM-14826-CWP-2023 in/and CWP-18596-2011
Rajesh Jolly and others	...Petitioners
Versus	
State of Punjab and another	...Respondents
(13)	CM-14782-CWP-2023 in/and CWP-18799-2011
Gurcharan Singh and others	...Petitioners
Versus	
State of Punjab and another	...Respondents
(14)	CM-14786-CWP-2023 in/and CWP-18940-2011
Vikram Mahajan and others	...Petitioners
Versus	

CM-16017-CWP-2023 in/and
CWP-18574-2011 and other connected cases

2024.PHHC.095643



State of Punjab and another ...Respondents

(15) CM-14792-CWP-2023 in/and
CWP-19215-2011

Harbhajan Singh and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(16) CM-14775-CWP-2023 in/and
CWP-19235-2011

Bikramjit Singh and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(17) CM-14773-CWP-2023 in/and
CWP-19608-2011

Lakhwinder Singh Gill and others ...Petitioners

Versus

State of Punjab and others ...Respondents

(18) CM-14778-CWP-2023 in/and
CWP-19661-2011

Lalit Kumar and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(19) CM-14871-CWP-2023 in/and
CWP-20602-2012

Hira Singh and others ...Petitioners

CM-16017-CWP-2023 in/and
CWP-18574-2011 and other connected cases

2024.PHHC.095643



Versus

State of Punjab and another ...Respondents

(20) CM-14811-CWP-2023 in/and
CWP-21012-2011

Swarn Kaur and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(21) CM-15329-CWP-2023 in/and
CWP-24299-2019

Mohinder Kaur and others ...Petitioners

Versus

State of Punjab and another ...Respondents

(22) CM-14776-CWP-2023 in/and
CWP-4487-2012

Rani and others ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Budhwar, Advocate for the petitioners
in CWP-18574-2011.

Mr. Vivek Sharma, Advocate for the petitioners
in CWP-19184-2011, CWP-19994-2011, CWP-6091-2012.

Mr. A.P.S. Bhinder, Advocate for
Mr. R.K. Arora, Advocate for the petitioners
in CWP-20394-2011, CWP-23926-2011.

Mr. Malhar Singh Dhani, Advocate for the petitioners



in CWP-20749-2011.

Mr. Inayat Khullar, Advocate for the petitioners
in CWP-21143-2011.

Ms. Alka Chatrath, Advocate with
Ms. Divyajyot Mann, Advocate and
Ms. Neha Singh, Advocate for the petitioners
in CWP-14084-2013, CWP-18258-2011, CWP-18458-2011,
CWP-18596-2011, CWP-18799-2011, CWP-18940-2011,
CWP-19215-2011, CWP-19235-2011, CWP-19608-2011,
CWP-19661-2011, CWP-20602-2012, CWP-21012-2011,
CWP-24299-2019 and CWP-4487-2012.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-16017-CWP-2023 in CWP-18574-2011, CM-16714-CWP-2023 in CWP-19184-2011, CM-16712-CWP-2023 in CWP-19994-2011, CM-17958-CWP-2023 in CWP-20394-2011, CM-16183-CWP-2023 in CWP-20749-2011, CM-17961-CWP-2023 in CWP-23926-2011, CM-16711-CWP-2023 in CWP-6091-2012, CM-18840-CWP-2023 in CWP-21143-2011, CM-15641-CWP-2023 in CWP-14084-2013, CM-14774-CWP-2023 in CWP-18258-2011, CM-14785-CWP-2023 in CWP-18458-2011, CM-14826-CWP-2023 in CWP-18596-2011, CM-14782-CWP-2023 in CWP-18799-2011, CM-14786-CWP-2023 in CWP-18940-2011, CM-14792-CWP-2023 in CWP-19215-2011, CM-14775-CWP-2023 in CWP-19235-2011, CM-14773-CWP-2023 in CWP-19608-2011, CM-14778-CWP-2023 in CWP-19661-2011, CM-14871-CWP-2023 in CWP-20602-2012, CM-14811-CWP-2023 in CWP-21012-2011, CM-15329-CWP-2023 in CWP-24299-2019 and CM-14776-CWP-2023 in CWP-4487-2012

Present applications have been filed for disposing of the present bunch of petitions in terms of the order passed by this Court in CWP No. 15102 of 2011 titled as ***Satya Paul Dogra Vs. State of Punjab and others***, decided on 09.08.2023.

Notice of the applications to the counsel opposite.



Mr. Charanpreet Singh, learned Assistant Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State and raises no objection for the grant of prayer as made in the present applications.

Keeping in view the averments made in the applications, which are duly supported by an affidavit, the applications are allowed and on the joint request of learned counsel for the parties, the main writ petitions are taken up for hearing today itself.

CWP-18574-2011 (O&M) and other connected cases

1. By this common order, 22 writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the grievance being raised by the petitioners is that they are entitled for the grant of benefit of advance increment in lieu of the higher qualification, which was acquired by them, by placing reliance upon the Instructions dated 23.07.1957 but the said benefit has not been extended to the petitioners. As per the averments made in the petitions, the Masters and Teachers who were working in the Education Department, Government of Punjab and have enhanced their qualification, were entitled for the benefit of 2/3 increments in view of Circular dated 01.09.1960, hence, the petitioners who also have a higher qualification than the one prescribed for the post in question, the petitioners are also entitled for the grant of benefit of the Instructions dated 23.07.1957.



3. Learned State counsel, on the other hand, submits that the claim of the petitioners is contrary to the decision of the Division Bench of this Court in LPA No. 2076 of 2014 titled as ***Prem Singh and others Vs. State of Punjab and others***, decided on 26.09.2016, wherein, it has already been noticed that the fresh Instructions were issued on 19.02.1979, wherein it was held that nobody will become entitled for the grant of 2/3 increment automatically on gaining the higher qualification in view of the Instructions dated 23.07.1957 and as per the Instructions dated 19.02.1979, only the employees who had already enhanced their qualifications, keeping in view the qualification prescribed for the post on which they were working, were only allowed the said benefit of increment, hence, the claim of the petitioners for the grant of higher pay on account of having higher qualification than the one prescribed for the post in question, is liable to be rejected.

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

5. It may be noticed that the Instructions dated 23.07.1957 as well as the Circular dated 01.09.1960 was withdrawn by the Instructions dated 19.02.1979. The only benefit allowed was that the employees who were in service as on 19.02.1979 and had a higher qualification as compared to the qualification prescribed for the post on which the employee was working, they were allowed to continue with the said benefit and any employee joining after 1979 was not granted the said benefit automatically upon attaining the higher qualification. After considering all the facts, Division Bench decided the issue while passing order in ***Prem Singh and others' case (supra)***. The



judgment of the Division Bench in ***Prem Singh and others' case (supra)*** is as under :-

“[1] The question that arose for the consideration of learned Single Judge was whether the appellants are entitled to 2/3 advance increments in lieu of higher qualifications acquired by them while in service?

[2] Appellants served the Education Department as Masters/Teachers in different subjects and have since retired. As they acquired higher qualifications while in service, the instant writ petition was filed based upon Punjab Government instructions dated 23.07.1957, which have unfortunately generated endless litigation in this Court as also before Apex Court. The appellants also rely upon another circular dated 01.09.1960 (Annexure P2), whereby State Government accorded permission to grant 2/3 increments to the Masters/Teachers working in the Education Department, who had improved their educational qualifications. Reference was made to yet another set of Instructions (Annexure P3) governing the subject.

[3] Learned Single Judge though initially allowed the appellants' writ petition but pursuant to Review Application No.340 of 2013 filed by State of Punjab, the order was recalled and the writ petition has been dismissed giving rise to this Letters Patent Appeal.

[4] It is not in dispute that appellants acquired higher qualifications of MA/MSc after 19.02.1979, on which date the Punjab Government had issued a new set of Instructions (Annexure P4) whereby on reconsideration of the whole matter it was decided that henceforth teachers of the Education Department shall not become entitled to be placed in the higher scale of pay in terms of para 3 of Government Instructions dated 23.07.1957 (Annexure P1) automatically on their



improving/acquiring higher qualifications during the course of their service. The Instructions further provided that the Teachers/Masters who have improved their qualifications before the date of issue of these instructions may be allowed benefit of higher scale of pay but such benefit shall not be allowed to those 'who are appointed or improved their qualifications after issue of this letter.'"

[5] Once the above-stated new set of Instructions were issued, all previous Instructions on the subject are deemed to have been modified/reversed/superseded. The law is well settled that in the case of executive Instructions, it is not necessary that previous Instructions should be formally superseded/repealed, as is required in a case of Statute or Statutory Rules. Once a new set of Instructions is notified, any contrary Instructions issued prior thereto, are deemed to have been superseded. The resultant effect in law is that latter Instructions dated 01.09.1960 (Annexure P2) relied upon by the appellants also stand superseded.

[6] Such a view has already been taken by one of us (Surya Kant, J.) in CWP No.4600 of 1998 decided on 07.08.2008. Even before that, a Division Bench of this Court dealt with new set of Instructions dated 19.02.1979 in LPA No.374 of 1994 (State of Punjab and others vs Joga Singh and others) decided on 20.02.1996 and categorically held that the writ petitioners who joined service after 19th February, 1979 or who improved their qualifications after that date "shall not be entitled to the benefit of higher pay scales automatically and they shall be entitled to the benefit of higher pay scales only in accordance with the new policy contained in the Circular, dated 19th February, 1979."



[7] In the light of above discussion and following the cited case law, we do not find any merit in this appeal.

[8] Dismissed.”

6. Hence claim raised in these petitions is contrary to the decision of the Division Bench in ***Prem Singh and others’ case (supra)***, hence cannot be allowed.

7. At this stage, learned counsel for the petitioners submit that another Co-ordinate Bench of this Court has passed an order in CWP No. 15102 of 2011 titled as ***Satya Paul Dogra and others Vs. State of Punjab and others***, decided on 09.08.2023 that the said benefit of increment is to be allowed to everyone irrespective of the date of joining even to an employee, who might have joined after 19.02.1979 or might have gained the higher qualification after the said date, hence, the petitioners are also entitled for the said benefit.

8. A bare perusal of the judgment in ***Satya Paul Dogra and others’ case (supra)*** would show that the factum with regard to the Instructions dated 19.02.1979 by which the Instructions dated 23.07.1957 primarily stood withdrawn has not at all been noticed. Further, even the judgment of the Division Bench in ***Prem Singh and others’ case (supra)***, which was also on the same issue, had not been brought to the notice of the Court for decision. That being so, once the judgment of the Division Bench clarifies as to who will be entitled for the benefit under the Instructions dated 23.07.1957 after the promulgation of the new Instructions dated 19.02.1979, the judgment of the Division Bench in ***Prem Singh and others’ case (supra)***,



will govern the issue and not the judgment of Co-ordinate Bench in ***Satya Paul Dogra and others' case (supra)***, wherein, ***Prem Singh and others' case (supra)***, has not been considered.

9. Keeping in view the above, the present petitions are also disposed of with the direction that in case, any of the petitioner joined prior to 19.02.1979 and had enhanced his/her qualification keeping in view the qualification prescribed for the post in question on which he/she was working and that too prior to 19.02.1979, the benefit be given to the said employee as per the judgment in ***Prem Singh and others' case (supra)***. Any employee appointed after 19.02.1979 or any employee who enhanced his/her qualification after 19.02.1979 will not be covered under the Instructions dated 23.07.1957 for the grant of benefit of increments.

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

11. A photocopy of this order be placed on the file of connected cases.

July 29, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes