

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

268

CWP-14900-2018 (O&M)
Date of decision: 10.04.2024

Vijay Kumar Monga

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.K. Goklaney and Mr. Ashish Goklaney, Advocates
for the petitioner

Mr. Charanpreet Singh, AAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The prayer made in the case is to consider the previous service rendered by the petitioners in the Government Aided School towards fixation of their pay on their joining in the Government School, which the learned counsel submits stands already decided by this Court in **Sunil Kumar Sharma and Others vs. State of Punjab**, CWP-4629-2012, whereby a batch of petitions were allowed on 19.02.2018, Annexure P-3 against which the LPA and SLP, both were dismissed and it was implemented vide order dated 06.12.2023 and prays that the present petition be disposed as per the same. The relevant paras thereof read thus:

“The learned counsels have placed reliance on rule 4.4 of the PCS Rules. The same are reproduced as under:-

“4.4 The initial substantive pay of a Government employee who is appointed substantively to a post on a time -scale of pay is regulated as follows:-

(a) If he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post, had his lien not be suspended-

(i) When appointment to the new post involves the assumption of duties or responsibilities of greater importance (as interpreted for the purpose of rule 4.13) than those attaching to such permanent post, he will draw as initial pay the stage of time scale next above his substantive pay in respect of old post;

(c) (i) Notwithstanding anything contained in these rules, where a Government employee holding a post in a temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above his pay drawn by him in the lower post provided it is certified by the Head of the Department in which the Government employee was holding the lower post that he would have continued to officiate in the lower post but for his promotion/appointment to the higher post.”

As per the afore-quoted rule, when appointment of an employee is made to a new post which involves the assumption of duties or responsibilities of greater importance than those attaching to such permanent post, pay of such appointees is to be fixed at the next stage in a time scale.

Instructions (Annexure P-2) issued by the Government of Punjab clarify that if an employee has held a post in the same or identical time scale in some other department or a body whether incorporated or not which is wholly or substantially owned by the Government, his pay on appointment in the Government service is to be fixed at the same level.

Further Rule 69 of the Grant-in-aid rules provides as under:-

“69 Staff Grants (i) Staff grants shall be at the rate of 95% of the pay paid and shall be admissible on account of teachers holding certificates/diploma/degrees awarded by the Punjab Education Department or University in the state or any other diploma/certificate awarded by another department of the Punjab State or of any other State or University providing the certificate/diploma/degree is recognized by Punjab Govt.”

Pay Fixation of Staff:- *The pay of teaching staff working in privately managed aided schools shall be fixed in accordance with Civil Services Rules and other instructions issued by the Govt. from time to time.*

It is to be noticed that all the petitioners were working on the aided posts and were being paid 95% by the State with overall control upon their services. The appointments against

the aided posts are made with the approval of the Director. As per Section 4 of the Punjab Privately Managed Recognized School (Security of Service) Act, 1979 (for short “the Act”), no employee shall be dismissed, removed, terminated or reduced either in rank or within a time scale except with the prior approval of the Director. Thus, the posts held by the petitioners were substantially controlled by the Government and therefore, as per Rule 4.4 of the of the PCS Rules, their pay which the petitioners had been already drawing is liable to be protected. Further, as per Section 7 of the Act, while working in the aided schools they were entitled to the scale of pay and dearness allowances equivalent to the employees of the state Government holding corresponding posts. Their claim in this regard is covered by Govt. instructions dated 15.11.2000 (Annexure P-2). The Punjab Civil Service Rules are applicable upon them in respect of their pay fixation as per Rule 69 of the Grant in Aid Rules reproduced above. Hence, as per Rule 4.4 of the PCS Rules and Govt. Instructions dated 15.11.2000 (Annexure P2), they are entitled to benefits of their previous service rendered by them in the Govt. aided schools towards fixation of their pay in the Govt. Schools with all consequential benefits.

Consequently, all the writ petitions are allowed. The respondents are directed to fix the pay of the petitioners in terms of rule 4.4 of the PCS Rules and grant them the necessary consequential benefits as well.”

2. Learned State counsel despite his best efforts was unable to 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 the judgment passed in **Sunil Kumar Sharma** (supra).

(AMAN CHAUDHARY)
JUDGE

10.04.2024
M.Kamra

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