

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-19772-2020 (O&M)
Date of Decision: 26.04.2024

Kulwant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. P.S. Khurana, Advocate for the petitioner.

Mr. Satnampreet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The prayer in the present petition is for directing the respondents to refix the pay and pension of the petitioner in terms of Instruction dated 22.06.2015, Annexure P-10.
2. Learned counsel submits that the petitioner joined at the post of Punjabi Teacher on 26.05.1975 and acquired higher qualification of M.A. (Punjabi) in 2nd Division on 19.08.1978, Annexure P-1. He was entitled to three advance increments as per Government Instructions dated 23.07.1957, Annexure P-2, however has been denied. As per the Instructions dated 19.02.1979, Annexure P-4, the benefit is not applicable to those appointed or who improved their qualifications subsequent to 19.02.1979, however he had attained higher qualification prior to the cut off date. The matter at hand is squarely covered by the case of **Vidya Sagar Singla and others vs. The State of Punjab and others**, CWP-2632-1985, decided on 21.02.1986, Annexure P-6, against which SLP was dismissed on 08.04.1987, which was further recapitulated by this Court in

CWP-11758-1989, **Jaswinder Kaur and another vs. State of Punjab and others**, decided on 07.06.1991, Annexure P-7. The relevant paras of **Vidya Sagar Singla** (supra) read under:-

“A reading of these communications in the light of the rules to which a reference has already been made makes it abundantly clear that at all stages the Government had decided to grant advance increments to the employees covered by these rules who has post-graduate qualifications at the time of their entry into service or acquired the same later. In the light of this, the stand of the respondent authorities that with the revision of the pay scales the employees like the petitioners had not to be given any additional advantage of grant of advance increments either at the stage of their entry into service or at the time of their acquisition of post-graduate qualifications, appear to be futile. In order to sustain this stand, these authorities have primarily relied on a copy of the Punjab Government letter dated July 29, 1967. Annexure R1, the material part of which relevant to the issues read as follows:-

“All trained graduates and other masters with the post-graduate qualifications, who are not fitted in the scale of a Lecturer will be in the scale of Rs.220-8-300-10-400/20-500. Advance increments may be given to the Science Masters who have completed the concerned M.Sc. Course at the rate of two or one according as the rate of two or one according as the certificates obtained by them is 'A' or 'B' Class.”

Even this letter, to my mind, does not justify the taking of the plea which is sought to be raised by these authorities. It is manifest from this letter itself that the Government did intend to give advance increments to those Science Masters who had completed the M.Sc. Condensed Course on the basis of their performance in that course. It looks unimaginable that the intention of the Government was to grant advance increments to those employees only who had done M.Sc. Condensed Course and not to those who had acquired Science degrees after completing the prescribed course. Similarly, it appears beyond any reason that those employees who had acquired post-graduate qualification in Arts, such as M.As. would not be entitled to advance increments when they happen to be the members of the same class of service i.e. Class III, to which the employees having post-graduate qualifications in Science subject belong. Besides this, the instructions Annexure P-3 were issued by the State Government after the issuance of this letter Annexure R-1 and vide those instructions - the relevant part of which has already been reproduced above - the Government made its intentions amply clear. In the face of these instructions the present stand of the respondent authorities essentially deserves to be repelled.

In the light of the discussion above, it is held that the

petitioners who were either having post-graduate qualifications, i.e. M.A./M.Sc./M.Ed. at the time of their entry into service or acquired these later during the course of their service, are entitled to advance increments of pay in the light of Annexure P2 and P3 with effect from the date of their entry into service or the date of acquiring the qualifications. It is, therefore, directed that the respondent authorities would refix the pay of the petitioners in the light of this conclusion of mine. For clarity's sake, it may, however, be mentioned here that so far as the question of payment of arrears is concerned, the letter Annexure P3 – on the basis of which they are primarily succeeding supplemented by later instruction Annexure P4 would govern the same and be confined to a maximum period of thirty-eight months prior to the issuance of instructions Annexure P-3 i.e. February 19, 1979. I, however, pass no order as to costs.”

3. The claim of the petitioner is further substantiated by Instructions dated 26.04.2018, issued after taking into account judgments of **Vidya Sagar Singla** (supra); **State of Punjab and others vs. Joga Singh**, LPA-374-1994, decided on 20.02.1996; **Wazir Singh JBT Teacher vs. State of Haryana JT**, 1995 (7) SC 404; **Kanwaljit Kaur vs. State of Punjab**, CWP-3774-1995, decided on 20.11.1995; **Dharam Pal vs. State of Punjab**, CWP-7514-1990, decided on 21.05.2009; **Beant Singh and others vs. State of Punjab and others**, CWP-4634-2009, decided on 30.08.2010, where the aspects of entitlement to advance increments upon obtaining postgraduate qualifications before specified date as well payment of higher scale on the basis of credentials were dealt with, relevant portion of which reads thus:

“Keeping in view the above and settled position of law, the only those Masters/mistresses working in the Education Department are entitled to the benefit of 2/3 advance increments on acquiring the higher qualification of post graduation who were appointed prior to 19.02.1979 and acquired such qualification before this date until 31.12.1985 only. In case of any of the petitioner who do qualify such criteria had not been granted such benefit, would be entitled to such benefit. Such petitioners shall be entitled to the arrear of pay, if any prior to 38 months from the date of filing of the present writ petition.

With the aforesaid orders, the claim of the petitioners shall stand settled. The concerned D.E.O's are directed to check

the service record of the petitioners of their districts and act accordingly. After deciding all the claims of the petitioners of your district, the compliance report must be sent to this office by 15.05.2018 so that the order of the Hon'ble High Court may be complied with. The concerned D.E.O's (SE) shall be personally responsible for any kind of negligence/delay in these cases.”

- 4. Learned State Counsel, despite his best efforts, has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
- 5. The present petition is thereby, disposed of in terms of the judgment of **Vidya Sagar Singla** (supra).
- 6. Pending applications, if any, also stand disposed of.

(AMAN CHAUDHARY)
JUDGE

26.04.2024
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Whether speaking : Yes/No
Whether reportable : Yes/No