

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

CWP-3658-2017 (O&M)

.....Petitioner(s)

STATE OF PUNJAB TH THE PRINCIPAL SECRETARY AND ORS

.....Respondent(s)

CWP-11923-2017 (O&M)

.....Petitioner(s)

STATE OF PUNJAB TH THE PRINCIPAL SECRETARY AND ORS

.....Respondent(s)

Present: Mr. Amrik Singh, Advocate
for the petitioners.

Mr. Swapan Shorey, DAG Punjab.

Mr. Ravi Inder Singh, Advocate
for respondent Nos.2 to 4 in CWP No.3658 of 2017.

Mr. Anupam Singla, Advocate
for respondent Nos. 2 to 4 in CWP No.11923 of 2017.

HARSIMRAN SINGH SETHI, J. (Oral)

Present set of two writ petitions involve common question of law in the background of common set of facts and thus they are being decided by a common order.

In the present petitions, the grievance raised by the petitioners is that the State of Punjab, Department of Education vide letter dated 08.05.2014 (Annexure P-6), granted the benefit of minimum of the regular pay scale and dearness allowance to the non-teaching staff working in Sarv Sikhya Abhiyan Authority, Punjab on contractual basis. Learned counsel for the petitioner argues that in the letter itself, the details of the employees to get the minimum of the pay scale have been mentioned and the petitioners were also part of the said calculations for the grant of the said benefits which was extended vide letter dated 08.05.2014 (Annexure P-6).

Learned counsel for the petitioner further submits that subsequent to the letter dated 08.05.2014 (Annexure P-6), vide letter dated 23.05.2014 (Annexure P-7), it was mentioned that the retired officials, who are working under the Sarv Sikhya Abhiyan Authority, Punjab will not be given minimum of the regular scale for the time being. Learned counsel for the petitioner submits that the claim raised by the petitioners is that the petitioners, who were also working on contract basis, have been discriminated for the grant of benefit as extended to the similarly situated employees working on contractual basis.

Upon notice of motion, the respondents have filed the reply wherein, the respondents have conceded the fact that on the day when the letter dated 08.05.2014 (Annexure P-6) was issued, the petitioners were working on contractual basis with the Sarv Sikhya Abhiyan, Punjab and were also part of the employees, details of whom have been given in Paragraph No.1 of the letter dated 08.05.2014 (Annexure P-6), but as subsequently, the retired employees were taken out of the purview of the

letter dated 08.05.2014 (Annexure P-6), the benefit of minimum of the pay scale has not been extended to the petitioners and therefore, no grievance can be made by the petitioners in this regard.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

Certain facts are undisputed. The petitioners retired from the service of the various Departments of the State of Punjab upon attaining the age of superannuation. Thereafter, they were employed on contractual basis under the Sarv Sikhya Abhiyan Authority, Punjab against various posts including the post of Junior Engineer to which cadre the petitioners belong. Along with the petitioners, there were other contractual employees who were also working as Junior Engineers. Keeping in view the total number of employees working under the Sarv Sikhya Abhiyan Authority, Punjab, who were working on various posts, the State Government in its wisdom decided to grant those contractual employees the benefit of minimum of the pay scale along with dearness allowance vide letter dated 08.05.2014 (Annexure P-6). Subsequently vide letter dated 23.05.2014 (Annexure P-7), the petitioners who were employed on contract basis after retirement have been taken out of the purview of the letter dated 08.05.2014 (Annexure P-6).

The only question which arises whether, the petitioners who were also working on contractual basis are entitled for the benefit as extended vide letter dated 08.05.2014 (Annexure P-6) or not?

A bare perusal of the letter dated 08.05.2014 (Annexure P-6) would show that the total of 1479 employees were allowed the benefit of minimum of the regular pay scale plus dearness allowance

while working on contractual basis. It is a conceded position that the petitioners were part of the said 1479 employees qua whom, the order dated 08.05.2014 (Annexure P-6) has been passed for the grant of minimum of the regular pay scale along with dearness allowance while working on contractual basis. Once, the said benefits was given to the petitioners, the same could not have been withdrawn by the respondents vide letter dated 23.05.2014 (Annexure P-7).

The petitioners have been excluded from the grant of the benefit of the minimum of the pay scale along with dearness allowance as extended vide letter dated 08.05.2014 (Annexure P-6) only on the ground that the petitioners have retired from the State of Punjab and thereafter employed on contractual basis.

The said differentiating fact, is not a valid reason to deny the petitioners the benefit of the minimum of the pay scale along with dearness allowance. Once, all the contractual employees have been given a particular benefit, everyone irrespective of the fact whether he/she is retired or not, is entitled for the same benefit. It cannot be said that two different yardsticks are to be applied for the grant of the pay scale to the contractual employees working with the Sarv Sikhya Abhiyan Authority, Punjab.

Once the petitioners are also discharging the duties as being discharged by other contractual Junior Engineers, it cannot be said that the petitioners are to be paid less salary than the other Junior Engineers merely because that the petitioners had already attained the age of superannuation and already retired before getting the contractual appointment in question. Once, the Junior Engineer working on contractual basis is allowed the

minimum pay of Rs.13,500/-, in case the petitioners were getting a lesser pay, then the petitioners who are working as Junior Engineers are also entitled for the minimum pay of Rs.13,500/- plus dearness allowance.

Further, the letter dated 08.05.2014 (Annexure P-6) was issued after the approval was granted by the Governor of Punjab to grant the said benefit. Nothing has come on record that before passing the order dated 23.05.2014 (Annexure P-7), the permission was taken from the authority concerned which had granted the benefit as envisaged under the letter dated 08.05.2014 (Annexure P-6). In the absence of any such approval shown to this Court, the order dated 23.05.2014 (Annexure P-7) which has been passed by the Deputy State Project Director is to be treated as without jurisdiction as, benefit granted by the Governor, cannot be withdrawn/clarified by a subordinate authority.

Learned counsel for the respondent has not been able to show any approval by the Governor of Punjab to the decision as taken in the impugned order dated 23.05.2014 (Annexure P-7) so as to exclude the retired employees for the grant of benefit as envisaged under the letter dated 08.05.2014 (Annexure P-6).

Keeping in view of the above, the letter dated 23.05.2014 (Annexure P-7), is hereby quashed. All the contractual employees working with the respondents with the Sarv Sikhya Abhiyan Authority, Punjab, who are part of 71479 employees, are entitled for the benefit as extended vide letter dated 08.05.2014 (Annexure P-6).

In case, the contractual salary of the petitioners was less than the salary when fixed as per letter dated 08.05.2014 (Annexure P-6), the

petitioners will be given the difference of the salary for the period they have discharged the duties on contractual basis.

Let the respondents pass appropriate order recalculating the salary of the petitioners and the actual benefits to be released to them under this order within a period of 8 weeks from the receipt of certified copy of this order.

Present petitions are allowed as above.

Pending applications, if any, also stand disposed off.

Photocopy of this order be placed on the file of other connected case.

23-07-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO