



CWP-30529-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CWP-30529-2024 (O&M)
Date of Decision :12.11.2024

Mukesh Nigam and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.K. Mehta, Advocate for the petitioners.
(joined through video conferencing).

Mr. Charanpreet Singh, AAG, Punjab
(keeping in view advance copy served)

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, prayer of the petitioners, who are the employees of the privately managed aided institutions is to grant them the benefit of revised grade pay equivalent to their counterparts working in the Government schools as per the instructions dated 05.07.2021 (Annexure P/1) as well as, as per the further notification of State dated 27.06.2024 (Annexure P/5).

Keeping in view the advance copy served, learned State counsel has put in appearance and submits that the petitioners are not the employees of the Government management and they are the employees of the privately managed aided institutions. Learned State counsel further submits that the Notifications dated 05.07.2021 (Annexure P/1) as well as dated 27.06.2024

**CWP-30529-2024 (O&M)****-2-**

(Annexure P/5) only relates to the grant of benefit to the Government employees and the claim of the petitioners that they are similarly situated is incorrect.

Learned counsel for the respondent-State vehemently argues that the claim can only be raised by the petitioners against the management and management of schools have not been impleaded as party to the present petition and once, the employer of the petitioners is not the party to the present petition, no claim can be raised against the State as the State is only to reimburse the management keeping in view the terms and conditions of the aid to be granted to the Said institutions.

Learned counsel appearing for the State further submits that the petitioners are claiming benefit from the employer only and the State is not the employer of the petitioners and hence, once the employer of the petitioners is the management, the dispute should have been raised before the Educational Tribunal, Punjab keeping in view the judgment of the Division Bench of this Court in *C.R. No.4315-2012, titled as, Management of S.D. Model Senior Secondary School and another vs. District Judge-cum-Service Tribunal, decided on 20.12.2013.*

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

It may be noticed that the petitioners are concededly the employees of the privately managed aided institutions. They are claiming the benefit, which is being granted to the employees of the State Government on the ground that they are similarly situated as the Government employees.

The same cannot be accepted as per the judgment of the Hon'ble Supreme



CWP-30529-2024 (O&M)

-3-

Court of India in *Civil Appeal No.7682-7684 of 2021 titled as State of Maharashtra and another vs. Bhagwan and others, decided on 10.01.2022*

wherein, it has been held that the employees working in the aided institutions even though, the said institutions are aided by the Government, cannot claim parity with the State Government employees so as to claim same benefits as extended to the Government employees. Relevant paragraph of the judgment is as under:-

10.2 In the case of [T.M. Sampath and Ors. Vs. Secretary, Ministry of Water Resources and Ors.](#) (supra), the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:-

“16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State under [Article 12](#) of the Constitution merely on the basis that its funds are granted by the Central Government. In [Zee Telefilms Ltd. v. Union of India](#) [(2005) 4 SCC 649], it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression “State” and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government under sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable.

17. Even if it is presumed that NWDA is “State” under [Article 12](#) of the Constitution, the appellants have failed to prove that they are on a par with their counterparts, with whom they claim parity. As held by this Court in [UT, Chandigarh v. Krishan Bhandari](#) [(1996) 11 SCC 348], the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under [Article 12](#). Thus, the employees of NWDA cannot be said to be “Central Government employees” as stated in the OM for its applicability.” As per the law [laid down](#) by this Court in a catena of decisions, the employees of the autonomous bodies cannot claim, as a matter of right, the same



CWP-30529-2024 (O&M)

-4-

service benefits on par with the Government employees. Merely because such autonomous bodies might have adopted the Government Service Rules and/or in the Governing Council there may be a representative of the Government and/or merely because such institution is funded by the State/Central Government, employees of such autonomous bodies cannot, as a matter of right, claim parity with the State/Central Government employees. This is more particularly, when the employees of such autonomous bodies are governed by their own Service Rules and service conditions. The State Government and the Autonomous Board/Body cannot be put on par.”

Learned counsel for the petitioners has not been able to rebut the fact that the petitioners are the employees of the management of the privately managed aided institutions and the claim being raised in the present petition is against the State.

At this stage, learned counsel for the petitioners submits that the claim of the petitioners is covered by the order passed by this Court in **CWP-29872-2022 titled as Satya Parkash Khanna and others vs. State of Punjab and others, decided on 11.07.2024**, hence, the present petition be also disposed of in same terms.

It may be noticed that the reliance being placed by the learned counsel for the petitioners to the order passed in **Satya Parkash Khanna (supra)** is incorrect as the same relates to the retired employees, which is covered by the Notification dated 27.06.2024 whereas, the petitioners are not the retired employees but are the employees of the privately managed aided institutions being managed by the management of the institutions concerned.

Keeping in view the said fact, prima facie, no ground is made out for the grant the benefit as being claimed by the petitioners in the present petition.

**CWP-30529-2024 (O&M)****-5-**

It may be noticed that a liberty was given to the learned counsel for the petitioners to approach the Educational Tribunal to seek the relief, which liberty was not accepted by him. Learned counsel for the petitioners requested for passing the orders on merits on the claim raised in the present petition.

Keeping in view the fact that employees working in the privately managed aided institutions cannot claim equivalence to the Government employees as per the judgment of the Hon'ble Supreme Court of India in **Bhagwan's case (supra)**, no relief can be granted to the petitioners by assuming that they are entitled for the same benefit as admissible to the Government employees.

Keeping in view the facts and circumstances noticed hereinabove, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

November 12, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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