



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

470

CWP-17778-2002 (O&M)

Date of decision: 21.02.2025

Joginder Kaur

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. The prayer made in the present petition is for quashing the order dated 06.02.2002 and declaring the action of the respondents for effecting recovery of the amount of pay as illegal.
2. The petitioner, widow of late Sh. Ranjit Singh, who died in 1984 riots, was appointed as Clerk on the basis of priority category No.1, in terms of the letter of the Punjab Government dated 24.04.1986 for resettlement of such persons.
3. The petitioner completed the period of probation of two years on 10.07.1992, Annexure P-1 and was confirmed with effect from 22.01.1990 vide order dated 16.09.1998, Annexure P-2.
4. After 8 years of service, she was given higher pay scale, Annexure P-3. The premise of the impugned order is that she had not passed the Punjabi type test at a speed of 30 words per minute within one year from the date of joining and thus recovery was ordered to be effected of the yearly increments from 22.01.1990



to 14.01.1997.

5. The petitioner is stated to have submitted a reply thereto that she had already cleared the type test conducted at the time of interview at Jalandhar and only appointed thereafter and that she had cleared the probation and was also getting increments for the last more than 12 years and submitted a request dated 17.06.2002 for clearing type test be waived off but a decision regarding the same, was however, not conveyed.

6. The Division Bench of this Court vide order dated 22.11.2002, stayed the recovery, till the next date of hearing and this interim order was made absolute on 04.03.2004.

7. Hon'ble the Supreme Court in **Sahib Ram vs. State of Haryana**¹ held thus:

“ 4. Mr. Prem Malhotra. learned counsel for the appellant, contended that the previous scale of Rs. 220-559 in which the appellant was entitled became Rs.700-1600 since the appellant had been granted that scale of pay in relaxation of the educational qualification. The High Court was, therefore, not right in dismissing the writ petition. We do not find any force in this contention. It is seen that the government in consultation with the University grants Commission had revised the pay scale of a Librarian working in the Colleges to Rs. 700-1600 but they insisted upon the minimum educational qualification of first or second class M.A., M.Sc, M.Com. plus a first or second class B.Lib. Science or a diploma in Library Science. The relaxation given was only as regards obtaining first class or second class in the prescribed educational qualification but not relaxation in the educational qualification itself.

5. Admittedly the appellant does not possess the required educational qualifications. Under the circumstance the appellant would not be entitled to the relaxation. The Principal erred in granting him the relaxation. Since the date of relaxation the appellant had been paid his salary on revised scale. However, it is not on account of any mis-representation made by the appellant that the benefit of higher pay-scale was given to him but by wrong construction made by the Principal

¹ 1995 Supp (1) SCC 18



for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant. The Principle of equal pay for equal work would not apply to the scale prescribed by the University Grants Commission. The appeal is allowed partly without any order as to costs.”

8. Learned State counsel despite 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.

9. In view of the aforesaid, the present petition is disposed of in terms of **Sahib Ram** (supra).

(AMAN CHAUDHARY)
JUDGE

21.02.2025
M.Kamra

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