



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

472

CWP-17876-2002 (O&M)
Date of decision: 21.02.2025

Gurdas Kaur

....Petitioner

Versus

State of Punjab and Another

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. M.S. Sidhu, Advocate 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 orders, whereby the recovery of Rs.1,19,567/- was ordered to be effected from the petitioner.

2. The petitioner, who joined the Department as a primary teacher on adhoc basis on 10.04.1978, was regularised vide order dated 30.09.1980 and on having passed the examination of higher qualification of Giani on 30.06.1978, was granted the higher pay scale from 12.06.1990, in view of the instructions dated 20.09.1979, which were generalized by the Government on 11.01.1990, to implement the judgment of Hon'ble the Supreme Court, in respect of similarly placed persons as well, who were not petitioners in the writ petitions.

3. The aforesaid was sought to be withdrawn after more than a decade on account of it having been granted to her by mistake, as has been stated in para 5 of the written statement dated 14.01.2004.

4. The Division Bench of this Court vide order dated 23.05.2003 had stayed the recovery, which was continued vide order dated 25.11.2003.

5. A batch of petitions involving the same issue, were decided on 30.08.2010 in CWP-14634-2009 titled as **Beant Singh and Others vs. State of**



Punjab and Others, wherein challenge was made to the Punjab Pay Scale of Teachers Act, 2004, seeking quashing of the memo dated 29.12.2004. The petitioners, having retired as teachers with higher qualifications, claimed entitlement to increments under a 1957 policy, later nullified by a 1979 circular that delinked pay scales from qualifications for new appointees, the 2004 Act, applied retrospectively from 1986, further restricted pay scales to the post held. The Court though affirmed the legislative competence and upheld its validity but prohibited the recovery of previously granted benefits, *albeit* directing re-fixation without deductions, relevant para whereof reads thus:

“ 14. As a sequel to the aforesaid discussion, we are of the considered view that the Act is intravires and it cannot be declared as ultra vires of the Constitution. However, no recovery could be made from the petitioners as payment of benefits in pursuance to the policy circular dated 23.7.1957 and 19.2.1979, was made to them without any misrepresentation on their part. For the aforesaid view, we place reliance on a Full Bench judgment of this Court rendered in the case of **Budh Ram Garg v. State of Haryana**, 2009 (3) PLR 1511. Accordingly, the writ petitions are allowed to the aforesaid extent leaving the official respondents to re-fix the pay of the petitioners without effecting any recovery.”

6. Learned State counsel being unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, in view of which, the present petition is disposed of in terms thereof.

(AMAN CHAUDHARY)
JUDGE

21.02.2025
M.Kamra

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