

(2013) 11 P&H CK 0257
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 7862 of 1995

Rajinder Singh and Others

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 28-11-2013

Acts Referred:

Citation : (2014) 2 SCT 522

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Harinder Sharma, for the Appellant; P.S. Bajwa, DAG., Punjab, for the Respondent

Final Decision : Partly Allowed

Judgement

K. Kannan, J.—The writ petition is at the instance of the persons who were Masters/Mistresses and seeking for higher pay scale on the basis of their acquiring higher qualifications. Admittedly they had all obtained higher qualifications subsequent to 19.2.1979. This date assumes significance because it was on that day the State of Punjab had issued a circular changing its earlier policy and declaring that any person who acquires higher qualifications subsequent to 19.2.1979 will not secure the benefit of higher scale. This circular was pointedly in challenge before this Court in CWP No. 1072 of 1994 titled Rajkhushwant Singh and others vs. State of Punjab. The writ petition contained a prayer that on the basis of higher qualifications obtained by them and in terms of the instructions issued on 23.7.1957, they were entitled to higher scale and the instructions issued on 19.2.1979 and a subsequent instructions dated 20.2.1979 withdrawing the benefit to persons who had obtained higher qualification subsequent to the respective dates were liable to be quashed. A Division Bench of this Court quashed the instructions by a judgment dated 2.2.1995 in which they have followed an earlier judgment in CWP No. 11995 of 1989. This latter judgment followed an earlier ruling of the Supreme Court in Chaman Lal and Others Vs. State of Haryana, . Without reference to a Division Bench quashing

the instructions dated 19.2.1979, it appears that the Division Bench which has quashed the instructions on the basis of reasoning contained in CWP No. 11995 of 1989 was itself the subject of appeal in LPA No. 374 of 1994 titled State of Punjab vs. Joga Singh. The LPA Bench has passed an order on 20.2.1996 upholding the instructions that in terms of the judgment of the Supreme Court in Wazir Singh, JBT Teacher and others Vs. State of Haryana and others, the State Government was entitled to change its policy and denied the benefit of higher scale. The Division Bench rejected the contentions of the teachers claiming higher scales and allowed the appeal filed by the Government. In so doing it expressly set aside the judgment in CWP No. 11995 of 1989 which incidentally was taken to be the basis for coming to a different conclusion by the Division Bench in Rajkhushwant Singh's case (supra).

2. The judgment in Rajkhushwant Singh's case (supra) was delivered by the Division Bench of this Court had made no elaborate reasoning but merely applied the judgment in CWP No. 11995 of 1989, but the later judgment of the Division Bench dated 20.2.1996 in Joga Singh's case (supra) literally set aside the judgment in CWP No. 11995 of 1989. As it stands the judgment in CWP No. 1072 of 1994 cannot be preferred when the subsequent Division Bench ruling has actually upheld the instructions dated 19.2.1979 as constituting a change of policy. If the petitioners have not come by higher qualification before 19.2.1979, the subsequent acquisition of such qualification cannot secure to them any benefit as per the revised instructions dated 19.2.1979.

3. The prayer in the writ petition consists of two parts, in the first part, there is a prayer to quash the impugned orders that withdrew the benefit of higher scales for persons who had secured higher qualification subsequent to 19.2.1979. In view of the law laid down by the Division Bench in Joga Singh's case the relief is not possible. The second part of the relief sought in the writ petition is to grant two or three increments on acquiring/possessing higher qualification as per letter dated 1.9.1960. The letter is reproduced as Annexure P-3 which provides for two increments for persons who had obtained postgraduate qualification in third division and three increments to persons who had obtained postgraduate qualification in first or second division. I have gone through the instructions dated 19.2.1979 and the whole text of the instructions is only with reference to grant of higher pay scales, as provided in the notification dated 22.7.1957 and makes no reference to additional increments provided through the instructions dated 1.9.1960. To those persons amongst the petitioners who have acquired higher qualification subsequently they will still be entitled to the increments since instructions dated 19.2.1979 does not deny such benefit. The writ petition is therefore partly allowed providing to the petitioners two or three increments as set forth in the 1960 notification. The respondents are directed to work out the benefits payable to the petitioners in the manner set forth within a period of eight weeks and release the benefit with interest at the rate of 9% per annum.