
(2000) 11 P&H CK 0108
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3255 of 1998

Ram Swarup

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-11-2000

Acts Referred:

Civil Services Rules (Punjab), 1941 — Rule 4.4
Constitution of India, 1950 — Article 14, 226

Citation : (2000) 11 P&H CK 0108

Hon'ble Judges : V.S. Aggarwal, J; Amar Bir Singh Gill, J

Bench : Division Bench

Advocate : Mr. R.K. Malik, for the Appellant; Mr. Narinder Hooda, AAG, for the Respondent

Judgement

V.S. Aggarwal, J.—Petitioners Ram Swaroop and others have filed the present writ petition invoking Article 226 of the Constitution of India

seeking quashing of the order purported to have been passed by the respondents by virtue of which the benefit of one increment already granted to

the petitioners under Rule 4.4(a)(i) of the Civil Punjab Services Rules, Volume 1, Part I, is being withdrawn.

2. The relevant facts are that the petitioners were appointed as teachers. They were granted higher pay scale on acquiring higher qualification. They

were granted the benefit of one increment under Rule 4.4(a)(i) of the Punjab Civil Services Rules, Volume I, Part I (for short "the Rules") from the

date they were actually promoted as Masters. The Director, Secondary Education, Haryana, issued a letter on 17.6.1996 to all the District

Education Officers and directions were issued that those employees who have already been granted the benefit of Master's grade from the date of

passing B.A.B.Ed. qualification, there is no justification to grant again the benefit of promotion in Master's scale.

3. The grievance of the petitioners is that the said order for withdrawing the benefit of one increment is illegal, particularly when similarly situated

other employees have been given such a benefit and in any case they were entitled to the higher scale on being promoted as Masters.

4. In the written statement filed, the petition as such has been contested. It has been pleaded that the function of the petitioners is to teach the

students for which they were appointed. It is immaterial that they teach the 5th class or 6th class to 10th class. By teaching the 6th to 10th class on

promotion, there is no higher re-sponsibility as they were not promoted on administrative posts. No higher responsibility is involved in their case as

they were supposed to teach the students whether they are 5th class students or 10th class students. The petitioners have already been granted

higher pay scale on their acquiring higher qualification. Therefore, they were not entitled to one additional increment under Rule 4.4(a)(i) of the

Punjab Civil Services Volume I, Part I, on their promotion to the post of Masters. They were already enjoying the benefit.

5. At the outset, learned counsel for the petitioner has drawn our attention to the decision rendered by this Court in Civil Writ Petition No, 10335

of 1997 titled Harpal Singh and others v. State of Haryana and others, decided on 15.1.1998. In the cited case, the question involved was

identical. Therein, there were certain J.B.T. Teachers who were granted Master's scale on acquiring qualification required for the post of Master

w.e.f. the date they acquired those qualifications. Later on, they were actually promoted as Master on different dates. They were granted one

increment vide Rule 4.4(a)(i) of the Rules referred to above. The said increment was sought to be withdrawn. A writ petition had been filed

challenging the same. On behalf of the State, it was conceded that they would be granted one increment though arrears were restricted to 38

months. The operative part of the judgment in Harpal Singh's case (supra) reads as under :-

Learned counsel for the respondents has placed on record a letter dated January 15, 1998 from the Director, Secondary Education, Haryana, to

the Advocate General, Haryana, in which it is mentioned that the matter has still further been reconsidered and it has been decided that the

petitioners would be entitled to the grant of one increment under Rule 4.4. of the Punjab Civil Services Rules, Vol. I, Part I. However, the arrears

would be confined to 38 months prior to the filing of the writ petition. Since the relief as sought for by the petitioners has been granted by the

respondents, the writ petition has become infructuous and the same is disposed of as such. However, we may observe that as per the statement of

the learned counsel for the petitioners, they have been getting the pay according to Rule 4.4 i.e. by adding one increment to the pay which they

were drawing at the time of their promotion as Masters and in fact it was never withdrawn but it was only sought to be withdrawn. Therefore, the

question of confining any arrears to 38 months under these circumstances would not arise as the petitioners are already getting the pay which the

respondents say that they will keep on getting, If any one of the petitioners had not been given the pay according to Rule 4.4 only in that eventuality

the arrears so calculated would be confined to 38 months prior to the filing of the writ petition which was filed on 21.7.1997.

Indeed, having made such a statement, we are constrained to observe that there is no occasion for the respondents as a model employer to

discriminate between different employees. Keeping in view what was stated in the Court in the writ referred to above, similarly situated teachers

could not have been discriminated.

6. Otherwise also, the petitioners had been granted the higher pay scale on acquiring qualifications and later on when they were promoted as

Master, under Rule 4.4(a)(i) of the Rules, they were granted another increment. Higher pay scale was granted on the basis of instructions to avoid

stagnation. This has nothing to do when the teachers were actually promoted as Masters. Both are independent of each other. The instructions

were given effect to and once they were promoted subsequently, there is no escape from the finding that they were to be given the increment

because they were promoted as Masters.

7. A feeble argument had been advanced on behalf of the State that when the petitioners were promoted as Masters, they were not discharging the

duties of higher responsibility and, therefore, they cannot take the benefit of Rule 4.4(a)(i) of the Rules. We need not delve into the said

controversy because answer is provided by the decision of this Court in Civil Writ

Petition No. 18303 of 1998 titled Veena Kamari and others v.

State of Haryana and others, decided on 25.7.2000. A similar plea was raised therein. We reproduce the findings in the said writ petition wherein

the said contention of the State was negatived. It reads as under :-

Learned counsel appearing on behalf of the State of Haryana urged that it is not a post of Higher responsibility or duties and, therefore, the

petitioners were not entitled to an increment. It was further urged that since the petitioners were to teach a higher class does not imply that they

were holding the post of higher responsibility or duties.

Teaching by itself is of great responsibility. It is the teachers who bring up the youngsters as good citizens. The future of any nation depends as to

how the teachers teach. But teaching of higher classes unless there is something to the contrary would ordinarily be of higher responsibility.

The position herein as is apparent from the plea of the respondents is that earlier the petitioners were teaching to Class 1 to 5. As Social Study

Masters, they were teaching class 6th to 10th. Therefore, they must be taken to be holding the post of higher responsibility. This is also apparent

from the fact that the scale of J.B.T. teachers is lower than that of the post of Social Study Master. That is why the State has provided the higher

scale for Social Study Masters. To the same effect was the decision of this Court in the case of Lekh Raj Khera and others v. State of Punjab and

others 1986(3) SLR 410 with which we respectfully agree. We must hold, therefore, that the petitioners in the present cases were promoted to a

post of higher responsibility and duty. Consequently, they were entitled to the increment.

Keeping in view the aforesaid, the answer is clear and the contention of the State necessarily has to be rejected.

8. As an offshoot of these reasoning, we hold that the impugned order issued by the respondents cannot be sustained. The same is quashed. The

petitioners are entitled to the increment that had been granted to them. The parties are left to bear their own costs.

9. Order accordingly.