

(2013) 08 P&H CK 0948
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12972 of 1997

Smt. Jasmeri Devi and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0948

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : Lalit Thakur, for the Appellant; Sukant Gupta, Addl. A.G., Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Paramjeet Singh, J.—Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ of mandamus directing the respondents to grant the petitioners a higher pay scale in accordance with the qualifications possessed by them in view of instructions issued by the erstwhile State of Punjab on 18.1.1954 and 23.07.1957 and in view of judgment of the Hon'ble Supreme Court in SLP No. CC 1404 of 1989 State of Haryana vs. Prabhakar Sharma and others and orders of the Full Bench of the Om Parkash Arya, Teacher and others Vs. The State of Haryana and another Om Parkash Arya, Teacher and others vs. State of Haryana and another decided on 12th May, 1988 and the respondents be further directed to give all consequential reliefs such as fixation of pay, arrears, etc. for which the petitioners are legally entitled and for the grant of other reliefs as prayed for. The necessary facts for disposal of instant writ petition are that the petitioners were working as J.B.T. Teachers, C & V Teachers and Masters in the Education Department, Haryana at the time of filing the writ petition and posted in various districts of the State of Haryana. They had acquired additional qualifications. As a result of which, they claim that they are entitled to higher pay scales according to the qualifications they possess irrespective of the post held by them.

2. I need not dilate upon the other facts.

3. This writ petition came up before the Division Bench of this Court on 30.07.1998 and the following order was passed:

The parties are agreed that the Apex Court decision in SLP (Civil) No. 14305 of 1997 against the judgment of this Court in CWP No. 17192 of 1996 decided on 13.2.1997 would have bearing on this case. In the aforesaid case, leave has since been granted by the Apex Court on 6.4.1998 and has been ordered to be heard with Civil Appeal No. 4304 of 1990.

In these circumstances, we deem it appropriate to adjourn this case sine die and it would be put up for motion hearing after the decision of the aforesaid SLP. Learned counsel for the parties will inform the office as and when the decision is rendered by the Apex Court.

4. That Civil Appeal No. 2104 of 1998 arising out of SLP No. 14305 of 1997 along with a bunch of connected cases including Civil Appeal No. 4304 of 1990 has been decided which has been reported as *The State of Haryana and Another Vs. Kamal Singh Saharwat and Others*, . Vide this judgment, the Hon'ble Supreme Court has accepted the appeal of the State of Haryana and passed the following order:

42. In the result, we have no hesitation to hold that the teachers are not entitled to claim higher pay on the scales of pay applicable to lecturers on their acquiring postgraduate qualification without being appointed as lecturers. Learned counsel for the State of Haryana has categorically stated that higher pay on the scales applicable to the Masters was already being paid to the teachers and that at any rate the Government has absolutely no objection to pay the same if they were entitled thereto in accordance with the law laid down by this Court. We have already referred to the fact that the only person to whom higher pay on the scales applicable to the lecturers was being paid was Kamal Singh Saharwat the first petitioner in C.W.P. 7122 of 1988 before the High Court. At the time of grant of leave, this Court passed an order in the stay petition that if the State ultimately succeeds, it will be entitled to appropriate relief. Consequently, the State Government, appellant in Civil Appeal No. 4304/90 is entitled to recover back from Kamal Singh Saharwat the first respondent in the appeal whatever has been paid over and above his entitlement. It will be open to the Government to take appropriate proceedings, therefore, if it decides to recover the excess after such a long lapse of time. Similarly, the State Government is entitled to recover from such other persons, if any, to whom excess payments have been made. The proceedings in Contempt Petition, namely, Civil Original Contempt Petition No. 649 of 1989 on the file of the High Court of Punjab & Haryana requires to be dismissed. If it is still pending on the file of the High Court, a formal order of dismissal may be passed by the High Court pursuant to this judgment. Civil Appeal No. 4304 of 1990 is allowed on the above terms.

5. The present writ petition is squarely covered by *Kamal Singh Saharwat*

(supra). In view of above, the instant writ petition is dismissed.