

(1998) 11 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. 1603 of 1991

State of Punjab and Another

APPELLANT

Vs

Mohinder Kaur

RESPONDENT

Date of Decision : 13-11-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 2 ILR (P&H) 1

Hon'ble Judges : N.C. Khichi, J; Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : P.S. Chhinna, DAG, for the Appellant; V.K. Jindal, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—Can a Domestic Science Teacher claim the scale of pay sanctioned for the post of a Classical and Vernacular Teacher merely because she has acquired the qualification. of Giani? This is the short question that arises for consideration in this Letters Patent Appeal. The learned Single Judge having allowed the writ petition, the State of Punjab has disputed, its correctness. A few facts may be noticed.

2. The Respondent passed the JBT (Home Crafts) examination from the Government Central Crafts Institute in June, 1973. Thereafter, she passed the Giani examination in September 1975 from the Punjabi University, Patiala. It appears that the Respondent had joined service as a Domestic Science Teacher on September 25, 1974. Since she was already employed, she passed the Giani examination as a private candidate. The initial appointment was ad hoc. Vide order dated February 12, 1980, the Respondent's services as a Domestic Science Teacher were regularised with effect from April 1, 1977. After having passed the Giani examination, she claimed that the pay scale sanctioned for the post of a Classical and Vernacular teacher be granted to her. The Department having not accepted her claim, she approached this Court through a petition under Article 226 of the Constitution.

The State of Punjab contested the claim. However, the learned Single Judge found that a person who has qualified the JBT (Home Crafts) examination is entitled to be treated as "equivalent to JBT". Thus, the writ petition was allowed. Hence this appeal.

3. Mr. Chhinna, learned Counsel for the Appellants has made a two-fold submission. Firstly, it has been contended that the Respondent having passed only JBT (Home Crafts) examination, she could not be treated at par with those who had passed the Junior Basic Teacher's training course. Secondly, it has been contended that mere passing of the Giani examination" cannot entitle the Respondent to claim the scale of pay sanctioned for the "Classical and Vernacular" teachers who fall in Category "B" Group III of the circular issued by the State Government on July 23, 1957.

4. On the other hand, Mr. V.K. Jindal, learned Counsel for the Respondent-teacher has contended that all teachers who possess the qualification of Giani are entitled to be placed in the scale sanctioned for category "B" Group III irrespective of the fact that they are not engaged to teach Punjabi. Counsel has placed reliance on the decisions of certain cases by their Lordships of the Supreme Court as well as this Court.

5. Admittedly, the Respondent has passed the JBT (Home Crafts) examination. It has been held by the learned Single Judge that this examination is equivalent to the JBT examination. This is on the basis of the circular letter, dated May 12, 1969, a copy of which has been produced as Annexure P.3 with the writ petition. In this circular, it has been mentioned that the Diploma Course in Junior Basic Training (Home Science) shall be treated as equivalent to that of JBT of Education Department, Punjab for the purpose of recruitment for the posts of Domestic Science Teachers in Middle Schools under the State Government/ Admittedly, the Respondent has not passed the Diploma Course in Junior Basic Training (Home Science). There is nothing on record to show that "Home Crafts" is equivalent to "Home Science".

6. Even, if this aspect of the matter is ignored for the reason that the validity of the Respondent's appointment is not in issue, the question still remains, Can the Respondent claim the scale of pay sanctioned for the posts of teachers falling in category "B" Group III?

7. Inevitably, a reference to the; circular, dated July 23, " 1957 is called for. By this circular, it was inter alia provided as under:

Teachers in the Education Department:

It has been decided that all the teachers according to their qualifications should be placed in the following two broad categories:

Category "A" :

B.A/B.Sc./B.Sc (Agriculture) and Br./Diploma in Physical Education/Diploma in

Senior Basic Training.

Category "B":

Group-I Matric with Basic Training (including JTs) Group-II JTs (including Assistant Mistress with BS/ Inter/Matric plus JAV training).

Group III I-Shastries.

II-Gianies Prabhakars, Drawing Masters and Craftsmen certificate holders:

III--Munshi Fazil, IV/STs including SVs with training in Physical Education or Agriculture.

Group-IV--Untrained teachers with qualification like B.com.B.Sc. (Agriculture), etc.

In addition there are smaller categories of special posts, such as Headmasters/ Headmistresses/District Inspectors/ Inspectors of Schools, with qualifications of category "A" above.

8. The purpose of this circular was to improve the emoluments of such teachers as had improved their qualifications. The apparent rationale appears to be to reward the teachers who had improved their proficiency. To illustrate, if a person who was merely a Matriculate with JBT could be appointed as a teacher. While in service, he may acquire the higher qualification of B.A. and B.T/B.Ed. On the acquisition of higher qualifications, his proficiency in teaching would improve. Resultantly, the circular envisaged that even if he was teaching the primary classes or was included in category "B" Group I, he would fall in category "A" and would thus, be entitled to a higher scale of pay. Similarly, if a person who was recruited to teach Hindi or Punjabi acquired the higher qualification of Giani or Prabhakar, his proficiency in teaching the subject would improve and thereby he would be entitled to the pay scale sanctioned for the persons in category "B" Group III. We can't interpret the provision in the circular to mean that if a Punjabi teacher acquired the qualification of M.Sc. in Physics, he would become entitled to the scale of pay sanctioned for the post of a Lecturer in Physics. This would be for the reason that for teaching Punjabi, a degree in Physics would not be of any relevance.

9. What is the position in the present case?

10. The Respondent was engaged as a Domestic Science Teacher. It has not been averred that Punjabi is one of the subjects assigned to her. Secondly, acquisition of a higher qualification viz. Giani in the present case will be of no use to her in teaching Domestic Science. Should she still be held entitled to a higher scale of pay ? We find no ground to do so.

11. Faced with this situation, learned Counsel for the Respondent has relied upon the decision of a Division Bench of this Court in CWP No. 1810 of 1976. This case was decided on July 20,1976. The Petitioners in this case were working as

Vernacular teachers which means that they had been engaged to teach certain languages. They had acquired higher qualifications of Giani, Prabhakar etc. Having done so, they had claimed a right to be placed in category "B" Group III. The claim was upheld. We have no quarrel with this proposition. Persons who were teaching Hindi or Punjabi had acquired higher qualifications in those subjects and thus, their claim for higher scales was sustained. However, such is not the position in the present case.

12. Mr. Jindal has also referred to the decision in Kirpal Singh Bhatia's case. He has referred to the decision of the learned Single Judge, the Division Bench as also the judgment of their Lordships of the Supreme Court. The decision of the Apex Court is reported as State of Punjab and Anr. v. Kirpal Singh Bhatia and others. The issue in this case was--Can the Matric JBT teachers claim the master's scale on passing the B.A. B.Ed examination? This claim was upheld. This was in complete conformity with the circular. Persons possessing the qualification of Matric JBT were teaching the primary classes. They had acquired higher qualifications of B.A. B.Ed. Thus, their claim for the scale sanctioned for category "A" was sustained. This decision, however, does not lay down that a person who is teaching science can claim a higher scale of pay on acquiring the qualification in any subject.

13. Mr. Jindal has referred to two Division Bench judgments of this Court in Jai Kishan Garg and Ors. v. The State of Haryana and Ors. 1996 (1) S.L.R. 134 and Gurjeet Kaur v. State of Haryana and Ors. 1996 (1) S.L.R. 328. Learned Counsel has however, very fairly conceded that neither of these cases deals with the issue as specifically arising in the present case. Obviously, therefore, he can derive no advantage from these two decision's.

14. Mr. Jindal has then relied upon the decision in Baij Nath v. State of Punjab 1996 (3) S.C.T. 420. In this case their Lordships of the Supreme Court were concerned with the question of the admissibility of a lecturers scale to master who had acquired a Post Graduate Degree. Reliance had been placed on circulars of July 23, 1957 and those issued subsequently. It was on a consideration of the various circulars and in particulars the letter dated September 20, 1979 that it was held that a master who acquired a post Graduate Degree was entitled to the lecturer's scale. Herein, we are concerned only with the circular of July 23, 1957. It does not talk of a lecturer's scale. Even the Respondent has no claim to such a scale. Consequently, the decision in Baij Nath's case is of no assistance to the Respondent.

15. No other point has been raised.

16. In view of the above, the question posed at the outset is answered in the negative. It is held that in terms of the circular of July 23, 1957, a teacher becomes entitled to a higher scale of pay when he/she acquires a higher qualification in the subject which is assigned to him/her. In other words, a Domestic Science Teacher cannot claim the scale of pay sanctioned for the

Classical and Vernacular teachers on acquiring the qualification of Giani.

17. As a result, the appeal is allowed. The judgment of the learned Single Judge is set aside the writ petition is dismissed. However, there will be no order as to costs.