
(2013) 01 P&H CK 0248
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 19843 of 2010

Surat Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 3 SCT 86

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : R.K. Malik and Ms. Renu, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

Tejinder Singh Dhindsa, J.—Learned counsel for the parties have been heard at length and pleadings on record have been perused. The Education Department, State of Haryana with a view to bring efficiency in the teaching system introduced a policy for awarding Government teachers for their commendable work in the field of teaching and educational growth. The petitioners have approached this Court in terms of filing the instant writ petition under Article 226 of the Constitution of India by raising a grievance that their claim for the grant of State Awards pertaining to the year 2009 has not been accorded due consideration.

2. Briefly noticed, petitioners No. 1 to 5 retired from Haryana Education Department while holding the posts of Principal/Head Master/Head Teacher/Art & Craft Teacher on various dates between 30.9.2009 to 30.6.2010. Petitioner No. 6 is still in service and has been granted promotion as Block Education Officer on 28.8.2009.

3. The Commissioner and Director General, School Education, Haryana, Chandigarh vide memo dated 23.7.2009 notified to all the District Education

Officers/Additional District Education Officers-cum-Elementary Education Officers in the State as also the Principals that in the light of the provision for grant of State Awards for honoring the teachers, who have done commendable/exemplary work in the field of education/social sector etc., the cases of all such eligible teachers for the State Award, 2009 were to be sent to the Directorate up to 5.8.2009 with the recommendations of the District Level Committee. It has been pleaded that in response to the memo dated 23.7.2009, the District Education Officer, Bhiwani on the recommendations of the District Level Committee had duly recommended the names of all the petitioners amongst others on 4.8.2009 (Annexure P-3). The grievance of the petitioners is that even though, no formal order in writing has been communicated to them but their cases for grant of State Teacher Award are not being considered ostensibly for the reason that petitioners No. 1 to 5 already stand retired and that petitioner No. 6 has earned promotion to the post of Block Education Officer on 28.8.2009.

4. The factual position as regards the names of the petitioners having been forwarded by the District Education Officer, Bhiwani on the recommendations of the District Level Committee on 4.8.2009 along with others vide Annexure P-3 stands admitted. Such applications had been duly forwarded by the District Education Officer in the light of a criteria duly evolved and circulated by the Commissioner and Director General, School Education, Haryana in terms of memo dated 23.7.2009 (Annexure P-2) in response to which the applications had been invited. Such criteria was in the following terms:-

While sending the cases of State Award's it may be strictly ensured:-

1. That the teachers completes at least 15 years of service on 31.12.2008 and in case of Principals/Headmaster's this duration should be at least 20 years.
2. That the results of the last 5 years of the Principal/Head Masters/Lecturer/Masters/C&V Teachers/J.B.T. Teacher should not be in minus (-) as compared to Board results except one year. The home results of the teachers should not be less than 80%, except one year.
3. That the overall grading in the Annual Confidential Reports for the last 5 years should be (+A) or (A), except one year.
4. That there is no complaint or inquiry pending against the Teacher.
5. That the Personal File of the Teacher should accompany containing ACR's upto 2008-2009.
6. That the certificates/publications attached should be countersigned/attested by the gazetted officer and the District Education Officer concerned.
7. The District Level Committee while recommending the case of any teacher will give specific comments regarding his/her educational/social/co-curricular and sports activities and reputation of the teacher in the society.
8. The District Level Committee will ensure that all the cases are properly

indexed, page numbers are indicated and all the information/documents should be strictly according to the prescribed Performa.

5. The State Government is justifying its action on the reasoning that the cases of the petitioners as regards the grant of State Teacher Award, 2009 on account of certain reasons could not be finalized and subsequently, in terms of issuance of memo dated 26.8.2010 issued by the Director, School Education, Haryana (Annexure P-4) a new policy and criteria had been framed and in the light thereof, as per conditions No. 5 and 6, retired teachers were not eligible for the State Teacher Award and even such teachers, who stand promoted to the post of Block Education Officer, have been rendered ineligible.

6. I find that directions are required to be issued in the present case in so far as consideration of the claim of the petitioners for grant of State Teacher Award pertaining to the year 2009 are concerned.

7. At the very outset, it is observed that even though the policy relating to grant of State Teacher Award would not vest in the petitioners any enforceable right but at the same time the State Government is expected to act fairly in so far as implementation of any such policy which has been introduced with the laudable object of bestowing the honour on a teacher who has done distinguished and commendable work in the field of education and related activities. Even though, no writ of mandamus could be issued for directing the State Government towards grant of State Award of such nature in favour of a teacher, still the petitioners against the peculiar factual backdrop of the instant case would be vested with a right to claim fair consideration.

8. The claim raised in the instant writ petition is pertaining to the grant of State Teacher Award for the year 2009 and applications had been invited by the Commissioner and Director General, School Education, Haryana on 23.7.2009 in the light of the specific criteria evolved therein. The petitioners were clearly eligible for consideration and accordingly, their names had been forwarded by the District Education Officer concerned upon the recommendations of a District Level Committee. Mere inaction on the part of the State Government in not finalizing such a claim even though having been duly recommended, cannot divest the petitioners of a right for consideration of a State Level Award on account of a change in criteria notified in the year 2010. Even otherwise, the memo dated 26.8.2010 (Annexure P-4) which is being cited to render the petitioners ineligible cannot have retrospective operation. The claim of the petitioners as regards the State Teacher Award pertaining to the year 2009 would require consideration in terms of the prevailing eligibility criteria as contained in the memo dated 23.7.2009 (Annexure P-2).

9. The petitioners have also successfully established the plea of discrimination. In para 10, ground (iii) the instances of three teachers, namely, Sh. Lakshman Dass Sharma, Deep Chand and Chhatar Singh have been cited, who were granted the benefit of State Award post retirement. The State Government in its reply, even

though, admitted the facts as regards the aforementioned three employees are concerned have sought to distinguish their cases on the reasoning that their claims have been considered in pursuance to the recommendations of the Department in the same year. Such reasoning on the face of it is arbitrary inasmuch as the present petitioners are being sought to be penalized in so far as consideration of their claim is concerned on account of the fact that the State Government had been tax in the matter and had not finalized the issue within time, even though recommendations pertaining to the year 2009 as regards the petitioners having been received within the stipulated time frame.

10. For the reasons recorded above, the present writ petition is allowed to the extent that the respondents shall accord due consideration as regards the claim of the petitioners for the grant of State Teacher Award pertaining to the year 2009 in the light of the eligibility criteria prevailing i.e. contained in the memo dated 23.7.2009 (Annexure P-2). Such exercise be completed within a period of two months from the date of receipt of a certified copy of this order. In the eventuality of the petitioners being found eligible for the grant of the State Teacher Award, the resultant and consequential benefits would be granted to them without any further delay. However, if the petitioners are not found entitled to the grant of State Teacher Award pertaining to the year 2009, they shall be conveyed such decision in terms of a speaking order. Petition allowed in the aforesaid terms.