

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

CIVIL WRIT PETITION NO. 27912 OF 2013

1. Gita Devi (Retd.) S.S Mistress D/o Mukand Lal
Govt. High School Jal Singh Wala Distt. Bathinda
R/o W/o Amar Nath Garg, H.No.21021, Gali No.2,
Power House Road, Bathinda
2. Raghbir Singh (Retd.) Lect. English S/o S. Utlham Singh
Govt. Sen. Sec. School Bhindi-Saydan Teh. Afnala Distt. Amritsar
R/o Maqbool Shah Road, Afnala, Distt. Amritsar
3. Hitablasha (Retd.) Lect. Eco. D/o Sh. Roshan Lal
Govt. Sen. Sec. School Naruana Distt. Bathinda
R/o H.No.185, Urban Estate, Phase-I, Bathinda
4. Rachhpaul Singh Dhillon (Retd.) Lect. Pol. Sc. S/o S. Gian Singh
Govt. Sen. Sec. School Shutrana Distt. Patiala
R/o V.P.O. Nawan Gaon, Teh. Moonak, Distt. Sangrur
5. Amar Nath (Retd.) S.S Master S/o Dharam Chand
Govt. High School Sang Dhesian Teh. Phillaur Distt. Jalandhar
R/o H.No.B-01/313, Mohalla Guru Nanakpur, Near Royal Hospital,
Teh. Phillaur, Distt. Jalandhar
6. Sat Bhushan Bansal (Retd.) Head Teacher S/o Hem Raj
Govt. Primary School Village Budhlada (Boys) BPEO
Budhlada-I Distt. Mansa
R/o Harjit basti, Backside PNB, Gali No.2, Budhlada,
Distt. Mansa

7. Harl Ram Bansal (Retd.) Math Master S/o Sh. Paras Ram
Govt. Sen. Sec. School(Boys) Budhlada Distt. Mansa
R/o Harjit basti, Backside PNB, Gali No.2, Budhlada, Distt. Mansa
8. Jaswinder Singh (Retd.) Head Master S/o S. Rangl Ram
Govt. High School Sandoha Distt. Bathinda
R/o Dashmesh Nagar, Gali No.3, Behind Bus Stand,
Maur Mandl, Distt. Bathinda
9. Usha Ranl (Retd.) Lect. Eco. D/o Gora Lal
Govt. Sen. Sec. School (Girls) Budhlada Distt. Mansa
R/o H.No.B-16, Guru Nanak Dev, Thermal Colony, Bathinda
10. Som Lal (Retd.) Hindi Master S/o S. Lal Chand
Govt. Sen. Sec. School Daska Distt. Sangrur
R/o Punia Street, Dashmesh Nagar, Ward No.4, Budhlada,
Distt. Mansa
11. Pawan Kumar (Retd.) Lect. Biology S/o Bihari Lal
Govt. Sen. Sec. School Bhokhra Distt. Bathinda
R/o Factory Road, Bareta, Distt. Mansa
12. Raj Kumari (Retd.) S.S Mistress D/o S. Motl Ram Bansal
Govt. Sen. Sec. School (Boys) Boha Distt. Mansa
R/o W/o Sh. Rakesh Kumar Goyal, Near Water Works,
Gali Muni Lal, Sarpanch, Budhlada, Distt. Mansa
13. Gurjant Singh (Retd.) Lect. Phy. Edu. S/o S. Gujjar Singh
Govt. Sen. Sec. School (Boys) Bhikhi Distt. Mansa
R/o Ward No.1, Bhikhi, Distt. Mansa
14. Usha Devi (Retd.) Math Mistress D/o Sh. Atma Ram
Govt. High School (Girls) Boha Distt. Mansa
R/o W/o Sh. Shubh Kanshi Mittal, Maln Bazar, Boha, Distt. Mansa

15. Darshan Singh (Retd.) Lect. Punjabi S/o Jangir Singh
Govt. Sen. Sec. School Bhadra Distt. Mansa
R/o Village Kanakwal, P.O. Alampur Bodla, Teh. Budhlada,
Distt. Mansa
16. Brij Lal (Retd.) Math Master S/o Sh. Jagan Nath
Govt. Sen. Sec. School Bir Hodla Kalan Distt. Mansa
R/o Barnala Road, Ward No.1, Bhikhi, Distt. Mansa
17. Amar Devi (Retd.) Lect. Eco. D/o S. Kulwant Rai
Govt. Sen. Sec. School (Girls) Mansa
R/o Ward No.13, Tagore Street, Mansa, Distt. Mansa
18. Bhagwan Dass (Retd.) Lect. Punjabi S/o Sh. Labhu Ram
Govt. Sen. Sec. School Sivian Distt. Bathinda
R/o H.No.8/863, Ganesha Basti, Bathinda, Distt. Bathinda
19. Mohan Lal (Retd.) Lect. Punjabi S/o S. Bachna Ram
Govt. Sen. Sec. School Kamalpura Teh. Jagraon Distt. Ludhiana
R/o H.No.1484, Near Commtee Gate, Raikot, Distt. Ludhiana
20. Tripat Kanta (Retd.) Lect. Commerce D/o Sh. Roshan Lal
Govt. Sen. Sec. School Ubha Burj Dhillwan Distt. Mansa
R/o H.No.133, Ganpati Enclave, Dabwali Road, Bathinda
21. Charanjit Singh (Retd.) Math Master S/o S. Roop Chand
Govt. High School Mohar Singh Wala Distt. Mansa
R/o Ward No.6, Near Ram Lila Ground, Bhikhi, Distt. Mansa
22. Kamlesh Kumari (Retd.) Lect. Math D/o Sh. Shanti Sarup
Govt. Sen. Sec. School (Boys) Mansa Distt. Mansa
R/o W/o Sh. Suresh Kumar, Nim Wall Gali, Near Indian Bank, Mansa

23. Saroj Garg (Retd.) Lect. Math D/o Mool Raj
Govt. Sen. Sec. School (Girls) Mansa Distt. Mansa
R/o W/o Mohinderpal Jindal, Machinery Store, Opp. Laxmi Mandir,
Shop. No.296, Mansa
24. Bagga Singh (Retd.) Lect. Math S/o Modan Singh
Govt. Sen. Sec. School Mehma Sarja Distt. Bathinda
R/o H.No.19365, Street No.3A, Guru Teg Bahadur Nagar,
Bathinda
25. Gurbachan Kaur (Retd.) Punjabi Teacher D/o Sh. Gurcharan Singh
Govt. Sen. Sec. School Naruana Distt. Bathinda
R/o W/o Bagga Singh, H.No.19365, Street No.3A,
Guru Teg Bahadur Nagar, Bathinda
26. Harbhajan Singh (Retd.) Lect. Punjabi S/o Sh. Karam Singh
Govt. Sen. Sec. School Sohal Distt. Tarn- Taran
R/o Patti Subaya, VPO Chabhal, Distt. Tarn- Taran
27. Kuldip Singh (Retd.) D.P.E. S/o Pritam Singh
D.I.E.T. Budhlada At Ahmedpur Distt. Mansa
R/o Ward No.1, Near I.T.I., Budhlada, Distt. Mansa
28. Gurpreet Singh (Retd.) P.T.I. S/o Mohinder Singh
Govt. Middle School Baba Bakala Complex Govt. Sen. Sec. School Sathiala
Distt. Amritsar
R/o V.P.O. Patti Chinne Mann, Teh. Baba Bakala, Distt. Amritsar
29. Jasbir Kaur (Retd.) Math Mistress D/o Sh. Pritam Singh
Govt. Sen. Sec. School (Girls) Patti Distt. Tarn- Taran
R/o C/o Dr. P.S. Khurana, Railway Road, Patti, Distt. Tarn- Taran
30. Mohanjit Kaur (Retd.) Lect. English S/o S. Balwant Singh
Govt. Sen. Sec. School Sandhu Patti Barnala
R/o Malwa House, Thikriwala Road, Barnala

31. Tarlok Singh (Retd.) Lect. Math S/o S. Gopal Singh
Govt. Sen. Sec. School (Boys) Majitha Distt. Amritsar
R/o MIG 14, Ground Floor, Mal Mandi, G.T. Road, Amritsar
32. Sarup Chand (Retd.) C.H.T. S/o Sh. Rattl Ram
Govt. Primary School Naharan B.P.E.O.
Jhunlr-II At Sardulgarh Distt. Mansa
R/o C/o Jagdambey Sanitary Store, Surat Gharia Bazar, Sirsa(Hry)
33. Jasmall Kaur (Retd.) D.P.E. D/o Harbans Singh
Govt. Sen. Sec. School (Girls) Kotkapura Distt. Fardikot
R/o W/o S.Jasmall Singh, H.No.B-I/592, Street No.4, Partap Singh Nagar,
Kotkapura, Distt. Fardikot
34. Ajit Singh (Retd.) D.P.E. S/o Rattan Singh
Govt. High School Ibrahimwal Distt. Kapurthala
R/o V.P.O. Ibrahimwal, Distt. Kapurthala
35. Arvind Randhawa (Retd.) Lect. English D/o Gurbachan Singh Randhawa
Govt. Sen. Sec. School Mall Road Amritsar
R/o H.No.75 Adarsh Nagar, Ram Tirath Road, Amritsar
36. Kulwant Kaur (Retd.) Head Mistress D/o Harbhajan Singh
Govt. High School Bharowal Kalan Distt. Ludhiana
R/o V.P.O. Bharowal Kalan, Via Sawaddi Kalan, Distt. Ludhiana
37. Raj Kumari (Retd.) JBT Teacher D/o Mulkh Raj
Govt. Primary School Kikar Khera B.P.E.O. Abohar-I Distt. Fazilka
R/o W/o Barham Dutt, H.No.B-V/1106, Jain Nagar Abohar, Distt. Fazilka
38. Surinder Kumar (Retd.) S.S Master S/o Girdhari Lal
Govt. High School Saroud Distt. Sangrur
R/o H.No.705, Krishna Colony, Malerkotla, Distt. Sangrur

39. Kamlesh Rani (Retd.) Hindi Teacher D/o Sh. Lachhman Dass
Govt. Middle School Qila Rehmat Garh
Complex Govt. Sen. Sec. School (Girls) Malerkotla Distt. Sangrur
R/o W/o Surinder Kumar, H.No.705, Krishna Colony,
Malerkotla, Distt. Sangrur
40. Sarabjit Kaur (Retd.) JBT Teacher D/o Nand Singh
Govt. Primary School Tahlian B.P.E.O. Budhlada-I Distt. Mansa
R/o V.P.O. Tahalla, Via Boha, Distt. Mansa
41. Jagjit Singh (Retd.) Art & Craft Teacher S/o Ran Singh
Govt. High School Kuttian Wall Via Tappa Khera Block Lambi
Distt. Muktsar
R/o H.No.479/11, Preet Nagar, Street No.1,
Opposite Punjab Palace, Ward No.12, Malout, Distt.
Muktsar-152107
42. Ajit Singh Sandhu (Retd.) Math Master S/o Bahal Singh
Govt. High School Kot Dharmu Distt. Mansa
R/o Ward No.2, Street No.5, Shri Guru Arjan Dev Nagar,
Link Road, Mansa
43. Vijay Kumar (Retd.) Sc. Master S/o Sh. Raj Pal
Govt. High School Koat Karor Kalan Distt. Ferozepur
R/o H.No.831, Street No.5, Geeta Colony, Moga
44. Daljit Singh (Retd.) Lect. English S/o Shamsher Singh
Govt. Sen. Sec. School (Boys) Fatehgarh Churian Distt. Gurdaspur
R/o H.No.123, Chand Avenue, Fatehgarh Churian Road, Amritsar
45. Teja Singh (Retd.) D.P.E. S/o Jangir Singh
Govt. High School Bhadalwad Distt. Barnala
R/o V.P.O. Karamgarh, Teh. & Distt. Barnala

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CWP_27912_2013_MEMO_OF_PARTIES 04-Oct-2016 at 17:31

-93-

7

46. Jagroop Singh (Retd.) Sc. Master S/o Jangir Singh
Govt. Middle School Lambwali
Complex Govt. High School Jakharwala Distt. Faridkot
R/o H.No.407, Street No.7, Partap Nagar, Kotkapura,
Distt. Fardikot

..... PETITIONERS

VERSUS

1. State of Punjab through Its Secretary,
Department of Education, Mini Secretariat,
Sector 9, Punjab,
Chandigarh.
2. Director Public Instructions (S.E.), Punjab,
5th Floor, B-Block, PSEB Building, Phase 8,
Mohali.
3. Director Public Instructions (E.E.), Punjab,
4th Floor, B-Block, PSEB Building, Phase 8,
Mohali.
4. Accountant General (A&E), Punjab,
Sector 17, Chandigarh.

.....RESPONDENTS

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High Court of Pb. & Hr., Chandigarh.

CWP_27912_2013_MEMO_OF_PARTIES 04-Oct-2016 at 17:31


-94-

Petition under Articles 226/227 of the Constitution of India for the issuance of a writ, order or direction especially in the nature of Mandamus directing the respondents to notionally fix the pay of the petitioners w.e.f. 01.01.2006 i.e. the date from which the Punjab Civil Services (Revised Pay) Rules, 2009 were made applicable instead of 01.10.2011 i.e. the date vide which by issuing executive instructions on 05.10.2011 (**ANNEXURE P-4**) the revised pay scale were actually granted and accordingly re-compute the pension of the petitioners if not w.e.f. 01.01.2006 at least w.e.f. 01.10.2011 as has been done in the case of pre 01.01.2006 retirees and consequently after re-computation of the pension grant the arrears alongwith interest in view of the judgment rendered by this Hon'ble Court in **CWP No. 25733 of 2012 titled as A.P. Sharma and others Vs. State of Punjab and others (ANNEXURE P-8)**.

It is further prayed that this Hon'ble Court may grant any other relief which it may deem fit in the facts and circumstances of the instant case.

RESPECTFULLY SHOWETH:

1. That the petitioners are citizens of India and are resident of State of Punjab and as such are competent to invoke the extraordinary writ jurisdiction of this Hon'ble Court under Articles 226/227 of the Constitution of India.

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High Court of Pb. & Hr., Chandigarh.



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27912 -2013 (O&M)
Date of decision-30.9.2016

Gita Devi and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

Present: Ms. Neha Sharma, Advocate,
for Mr. Kapil Kakkar, Advocate, for the petitioners
Mr.R.S.Pathania, DAG Punjab

For judgment, see judgment of even date passed in CWP-2866-
2014 titled as "Karanvir Singh and others vs. State of Punjab and others."

30.09.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No

Express/Urgent/Ordinary Petition No. 789864
Date of presentation of Application 04/10/16
No. of pages of Documents 09
Total No. of pages issued against Petition _____

- Per page charges :
- (1) Express (Initial fee Rs. 100/- upto 10 pages and Rs. 10/- per page thereafter)
 - (2) Urgent (Initial fee Rs. 100/- upto 24 pages and Rs. 5/- per page thereafter)
 - (3) Ordinary (Initial fee Rs. 50/- upto 10 pages and Rs. 2/- per page thereafter)

Total cost Rs. _____
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Date of notification of the defects _____
Date of rectification of defects _____
Date of preparation of copy 05/10/16
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Law

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[Signature]

CWP-2866-2014 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2866-2014 (O&M)
Date of decision: 30.09.2016

Karanvir Singh and othersPetitioners
versus

State of Punjab and othersRespondents

CWP-6394 -2014 (O&M)

Rajnish Kumar and othersPetitioners
versus

State of Punjab and othersRespondents

CWP-27912 -2013 (O&M)

Gita Devi and othersPetitioners
versus

State of Punjab and othersRespondents

CWP-3202-2014 (O&M)

Balwant Rai and othersPetitioners
versus

State of Punjab and othersRespondents

CWP-2913-2014 (O&M)

Surjit Singh and othersPetitioners
versus

State of Punjab and othersRespondents

CWP-2866-2014 (O&M)

2

CWP-17710-2016 (O&M)

Raj Bansal and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

CWP-9490-2014 (O&M)

Nar Singh and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

CWP-19870 -2016 (O&M)

Teja Singh and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present:- Mr. C.M. Chopra, Advocate,
for the petitioner (s) in CWP-2866, 6394, 3202, 2913-2014.

Ms. Neha Sharma, Advocate, for,
Mr. Kapil Kakkar, Advocate, for the petitioners
in CWP-27912-2013.

Mr. Vikas Chatrath, Mr. Khushkaran and Mr. Manikaran,
Advocates, for the petitioner (s) in CWP-19870-2016, 9490-
2014.

Mr. Sunny Singla, Advocate, for the petitioners,
in CWP-17710-2016

Mr. R.S. Pathania, Deputy A.G. Punjab.

3

CWP-2866-2014 (O&M)

3

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh, J.

By this common judgment, I shall dispose of eight connected civil writ petition Nos. 2866 of 2014, 6394 of 2014, 27912 of 2013, 3202 of 2014, 2913 of 2014, 17710 of 2016, 9490 of 2014 & 19870 of 2016 involving similar questions of law and facts.

Petitioners, who are pre and post 1.1.2006 retirees from the Education Department, have impugned the government circular dated 13.6.2012 (Annexure P12). They seek writ of mandamus directing the respondents to re-fix their pension as per circulars dated 17.8.2009, 22.2.2010 and 17.8.2009 (Annexure P9 to P11) after quashing the circular dated 13.6.2012 (Annexure P12) in view of the increase in the pay scales, grade pay and in terms of the decision dated 22.10.2013 rendered by this Court in CWP No.25733 of 2012 tilted as A.P.Sharma and others v. State of Punjab and others (Annexure P13).

The facts are extracted from the lead case i.e. CWP No.2886 of 2014.

Petitioners superannuated as Masters, Mistresses, Lecturers, JBT Teachers, C&V Teachers, Headmistress and Junior Assistants on different dates as per Annexure P1. Some of the petitioners retired before 1.1.2006 and some retired after the said date. It is stated that the 5th Pay Commission of the Punjab recommended pay scales of the various categories of the employees and submitted its report on 20.4.2009. The Pay

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CWP-2866-2014 (O&M)

4

Commission also recommended higher pay scales to various teachers on Central pattern as under:-

Designation Scale	Pre Revised	Pay Scale as per general conversion table	
		Pay Band	Grade Pay
JBET/ETT/Head Teacher	4550-7200	5910-20200	3000
Craft and vernacular teachers	5000-8100	10300-34800	3200
Centre head teacher/ Master/ Mistress	5480-8925	10300-34800	3600
BPEO/School Lecturer/ Vocational Master	6400-10640	10300-34800	4200
Head Master High School	7000-10980	10300-34800	4400
Principal Senior Secondary	10025-15100	15600-39100	6600

It is stated that due to typographical error, the pay scales were not mentioned in the original report dated 20.4.2009. Thereafter the Commission itself informed the government that there are certain typographical errors in the report in para Nos.5.31, 5.64, 8.5 at pages Nos.85, 102 and 159- 162. The Commission also addressed a communication dated 21.4.2009 requesting the government that above said errors may be rectified so that the report becomes error free. Following errors were requested to be corrected:-

CWP-2866-2014 (O&M)

5

Designation	Present Pay Scale	Revised pay scale as per general conversion table		Revised upgrade pay scale as per general conversion table	
		Pay Band	Grade Pay	Pay Band	Grade Pay
JBET/ETT Head Teacher	4550-7200	5910-20200	3000	10300-34800	4200
Craft and vernacular teachers	5000-8100	10300-34800	3200	10300-34800	4400
Centre head teacher/master/Mistress	5480-8925	10300-34800	3600	10300-34800	4600
BPEO/School Lecturer/Vocational master	6400-10640	10300-34800	4200	10300-34800	5000
Head Master High School	7000-10980	10300-34800	4400	10300-34800	5400
Principal Senior Secondary	10025-15100	15600-39100	6600	15600-39100	6600

The Government of Punjab accepted the recommendations of the 5th Pay Commission and made these applicable w.e.f. 1.1.2006. However, the pay scales were ordered to be accepted without corrections as requested by the Pay Commission. Later on, the Department of Finance, Punjab vide circular dated 5.10.2011 (Annexure P4) made the correction as suggested by the Pay Commission and accepted the pay scales of various categories of teachers. However, the said revision was given effect from 1.10.2011 instead of 1.1.2006 as granted to all other categories. In terms of letter dated 23.12.2011, the grade pay of the Head Teachers was increased to Rs.4400/- and initial pay was increased to Rs.17420/- w.e.f. 1.12.2011 (Annexure P-5), the grade pay of Masters/Mistresses was also increased to Rs.5000/- and accordingly initial pay increased to Rs.18450/- vide letter dated 8.12.2011 w.e.f. 1.12.2011 (Annexure P-6), the grade pay of Lecturers

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CWP-2866-2014 (O&M)

6

was revised to 5400/- with initial pay Rs.20300/- vide letter dated 9.12.2011 w.e.f. 1.12.2011 (Annexure P-7) and similarly the grade pay of junior assistant was revised to Rs.3600/- with initial pay Rs.14430/- vide letter dated 15.12.2011 w.e.f. 1.12.2011 (Annexure P-8). Thus perusal of these circumstances reveal that the benefit of higher scale has been granted w.e.f. 1.12.2011.

The Punjab Pay Commission recommendations regarding pensionary benefits were rationalized by circular dated 17.8.2009 for pre 1.1.2006 retirees, which were partially modified vide letter dated 22.02.2010 (Annexure P10), wherein it was laid down that full pension in no case shall be less than 50% of the initial pay shown column 8 of in the schedule of Punjab Civil Services (Revised Pay) Rules, 2009. The Finance Department issued a circular dated 13.6.2012 (Annexure P12), instructing that the pension of the pensioners is to be revised only once with reference to the initial pay of revised scale of pay as on 1.1.2006 and subsequent revision of pay scales has no correlation whatsoever with the pension of the pensioners. The net result is that on account of rectification of the error granting new pay scale w.e.f. 1.12.2011, the petitioners, who retired before the said date or before 1.1.2006 are not entitled to revision of the pension in view of the letter of the Finance Department dated 13.6.2012 (Annexure P12).

In the written statement, the respondents took the plea that the instructions dated 13.6.2012, 17.8.2009 and 22.02.2010 (Annexure P10 to P12) have been issued by the Department of Finance, which has not been made as party in the present case. It was stated that LPA has been filed against the judgment in the case of A.P.Sharma's case (supra) and the operation of the said judgment has been stayed. The respondents prayed that

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CWP-2866-2014 (O&M)

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
in view of the instructions, pension cannot be refixed as prayed for by the petitioners.

I have heard learned counsel for the parties and have also carefully gone through the file.

Admittedly, the report of the 5th Pay Commission was accepted by the government vide notification dated 27.5.2009 and the Punjab Civil Services (Revised Pay) Rules, 2009 came into force w.e.f. 1.1.2006. Pay scales were accordingly revised. It also comes out that the Pay Commission addressed a communication dated 21.4.2009, pointing out typographical errors in para Nos.5.31, 5.64, 8.8 at pages Nos.85, 102 and 159-162. Typographical errors pointed out have been reproduced in preceding paragraph of this judgment

It is also not a denying fact that vide different letters Annexure P5 dated 23.12.2011, Annexure P6 dated 8.12.2011, Annexure P7 dated 9.12.2011 and Annexure P8 dated 15.12.2011, the pay scales of Head Teachers, Masters, Mistresses, Lecturers, Clerks and Junior Assistants were revised effective from 1.12.2011. It is stated in the said letters that the pay scales have been further revised w.e.f. 1.12.2011. If the pay scales mentioned in the said letters Annexure P5 to P8 are examined, it comes out that these are the same, regarding which errors were pointed out by the Pay Commission vide letter dated 21.4.2009 (Annexure P2).

Learned counsel for the petitioners has argued that the Department of Finance has issued a letter (Annexure P12), wherein, it was instructed that the revised pension of pre 1.1.2006 pensioners, in no case, shall be less than 50% of the initial pay of the revised scale of corresponding to the pre-revised scale of pay, in which the pensioners had last worked and

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High Court of Pb. & Hr., Chandigarh.



CWP-2866-2014 (O&M)

8

at the same time, it was clarified that the subsequent re-revision of scales of pay has no co-relation, whatsoever, with the pension of such pensioners. Similarly, the pension of those petitioners, who retired after 1.1.2006 onwards is relatable only to the pay drawn in the admissible scale of pay at the time of their retirement and it has no co-relation, whatsoever with the revision of the pay scales from any subsequent date. In the present case, there are two categories of employees, one who retired prior to 1.1.2006 and others who retired after 1.1.2006 but prior to 1.12.2011, the date from which the new scales were implemented vide letters Annexure P5 to P8.

The petitioners have claimed the benefit of judgment in the case A.P.Sharma's case (supra). The State had filed the appeal bearing LPA NO.352 of 2014 against the judgment of the Single Bench, which has now been finally decided by a Division Bench of this Court on 31.8.2016. The question was raised before Division Bench as to whether the subsequent revision is in fact removal of the anomaly or grant of new scale. In the said case, the petitioners had retired before 1.1.2006. The circular dated 15.12.2011, implementing the revised pay scales qua the petitioners w.e.f. 1.12.2011 was also considered. Stand of the Government was that it was further revision of pay scales with prospective effect. It was also pleaded in the written statement that Anomaly Committee had detected the anomaly in the pay scale of above stated posts in the Finance Department and that a conscious decision was taken to remove the said anomaly. The Single Bench had decided the matter considering it to be the case of pay anomaly which was removed vide circular dated 15.12.2011. The Division Bench directed the Chief Secretary to explain the cause of upward revision of the pay for the posts in the Finance Department and whether such upward revision was

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CWP-2866-2014 (O&M)

9

granted to other categories of employees also as there was reference made to the Special Committee which examined the claimed before the issuance of the circular?

After examining the entire matter, the Division Bench observed as under:-

(20) The purpose and object of the constitution of the Pay Anomalies Committee is well explained in the Preface of the Report authored by the Financial Commissioner (Revenue) and it says as follows:-

“In view of these circumstances, the State Government thought it fit to redress the genuine grievances of its employees in an appropriate way and hence constituted this Committee to examine the pay anomalies, if any, in the recommendations of the Fifth Punjab Pay Commission and Government decisions taken thereon.”

(21) If the very purpose of constituting the Pay Anomalies Committee was to redress the grievances of employees in an appropriate way and to examine the issues of pay anomalies, the recommendations made by it deserves to be appreciated with reference to these objects of its constitution. In other words, wherever the Pay Anomalies Committee recommended a different higher pay structure, it was with a view to remove the existing anomalies and to rationalise the pay-scales. In the matter of the Department of Treasuries and Accounts, the Pay Anomalies Committee expressly noticed the cause of anomaly and recommended higher pay structure so as to remove the anomalous situation.

(22) These very recommendations were accorded approval by the Ministers' Sub Committee culminating into final circular dated 15.12.2011. If one reads para No.3 of the said circular in conjunction with the recommendations made by the Pay Anomalies Committee, it is not difficult to understand as to why the circular expressly restricts the benefit of higher pay-

10

CWP-2866-2014 (O&M)

10

scale notionally without granting any arrears of pay? The competent authority was conscious of the fact that it is a case of removal of pay anomaly which must be removed from the date it occurred but to obviate the additional financial burden on the State Exchequer, a decision was taken to remove such anomalies with prospective effect only.

The Division Bench after considering the factum of recommendations made by the Pay Anomaly Committee and Ministers' Sub-Committee, observed as under:-

(27) There may thus be no room to doubt that the object of the Pay Anomalies Committee as well as the Ministers' Sub Committee was to identify the anomalous situations, if any, which had arisen on the implementation of the 5th Punjab Pay Commission and to iron out those creases. This is what precisely has been done by the Ministers' Sub Committee, who recommended re-modulation and upgradation in pay-scales of various posts in different Departments.

(28) Since such alterations were to be made from the date of occurrence of the anomalous situation and such a recourse would have burdened the State Exchequer with heavy financial liability that the Ministers' Sub Committee in its wisdom took a decision to remove anomalies, prospectively. As no challenge has been laid to the cut-off date, no fault can be found with the same which has been applied uniformly in respect of all categories of employees.

While considering the effect of the circular dated 22.10.2010 and the circular dated 22.2.2010, it was observed as under:-

(31) As a cumulative effect of the two circulars referred to above, it stands crystalized that the amount of pension in the case of pre- 01.01.2006 retirees is not static and is flexible and fluctuating depending upon the pay-scale of the posts held by them while in service. In other words as and when there would be a revision of pay-scale of the posts occupied by them, their

11

CWP-2866-2014 (O&M)

11

pension would also be favourably re-fixed so as to ensure that it is not less than 50% of initial pay of the posts held by them. To say it differently if the initial pay of the posts of Joint Controller (F&A), Deputy Controller (F&A) or Assistant Controller (F&A) is enhanced in the year 2012, it will also benefit the pre-01.01.2006 retirees as their pension cannot be less than 50% of such initial pay.

Regarding the plea of the State that the Government circular dated 15.12.2011 granting higher pay scales cannot be applied retrospectively, the Division Bench observed as under:-

The expression "Retrospective" is neither synonymous nor identical to the concept of 'retroactive'. The phrase "retroactive" is applied to give effect to a quasijudicial or administrative order though pass prospectively but has its antedated effects. In Advanced Law Lexicon by P. Ramanath Aiyar (3rd Ed., 2005) the expression "retroactive" has been defined as "Acting backward; affecting what is past". Where the decision-making authority consciously decides not to give effect to a decision retrospectively but if it is bound to affect the antecedents of such decisions, it is held to have 'retroactive effect' but where the competent authority itself decides to give effect to its decision from a back date, such decision becomes 'retrospective'.

Therefore, the Division Bench while concluding, observed as under:-

(34) In the case in hand though the circular dated 15.12.2011 (P-4) is 'prospective' in nature but by virtue of Para 4.2 of the circular dated 17.08.2009 read with Para 2 of circular dated 22.02.2010, such prospective decision has a retroactive effect on the antecedents, namely, the pension amount of pre-01.01.2006 retirees. As the object and purpose of all the circulars is to grant benefits and as such these are to be classified as beneficial subordinate legislation, they are to be

12

CWP-2866-2014 (O&M)

12

given effect liberally and widely. Pre-01.01.2006 retirees, therefore, are entitled to re-fixation of their pension as per the circular dated 15.12.2011 but without any retrospective effect, namely, only from the date when the competent authority made it effective w.e.f. 01.12.2011.

(35) Para 3 of the circular dated 15.12.2011 cannot take away the effect and implications of Para 4.2 of the circular dated 17.08.2009 or of Para 2 of the later circular dated 22.02.2010 as both the circulars are meant for re-fixation of pension of pre-01.01.2006 retirees. The circular dated 15.12.2011 neither modifies nor supersedes the previous circulars. Those circulars independently cover and govern their own field of fixation of pension of pre-01.01.2006 retirees.

(36) As a result of the above discussion, it is held that the circular dated 15.12.2011 is retroactive in nature and the benefit of fixation of higher pay of various categories of employees is bound to have its positive effect on the pension of pre-01.01.2006 retirees.

Present case is squarely covered by the said authority of the Division Bench and therefore, it has to be held that the pre 1.1.2006 retirees are entitled to re-fixation of pension as per circular dated 15.12.2011 and circulars issued by Government from time to time but without retrospective effect, namely, only from the date competent authority made it effect w.e.f. 1.12.2011. Their pension is to be accordingly fixed.

Now, the question would arise what is to be the position regarding post 1.1.2006 retirees. In above noted A.P.Sharma's judgment, the Division Bench has held that circular dated 15.12.2011 is retroactive. It is held to be effective from 1.12.2011. The result would be that those employees, who retired between 1.1.2006 and 1.12.2011 shall also be entitled to the same benefit and their pension is to be accordingly fixed to be effective from 1.12.2011 in the revised pay scales which have been made

18

CWP-2866-2014 (O&M)

13

applicable from 1.1.2006.

Hence, it is ordered that the pre 1.1.2006 retirees are entitled to re-fixation of their pension as per circular dated 15.12.2011 and circulars issued by Government from time to time but without any retrospective effect, namely, only from the date when the competent authority made it effective w.e.f. 1.12.2011 in terms of judgment of Division Bench of this Court in A.P.Sharma's case (supra). Consequently, post retirees who retired between 1.1.2006 and 1.12.2011 are also entitled to re-fixation of the pension but without retrospective effect, namely, from the date when competent authority made it effective w.e.f. 1.12.2011. On account of re-fixation of the pension, other consequential benefits will also follow. Necessary follow-up action be taken within three months from the date of receipt of a certified copy of this judgment.

In view of what has been discussed above, all the writ petitions are allowed.

30.09.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes

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