

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6678 of 2014 (O&M)
Date of decision : July 08, 2016

Amar Singh and others Petitioners

Versus

The State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arun Abrol, Advocate for the petitioners.
Mr. Rajat Bansal, AAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present petitioners, who are retired teachers from the privately managed recognized aided schools have filed this petition, seeking the quashing of order dated 18.02.2014 (Annexure P-12) passed by respondent No.2-the Director of Public Instruction(s) PSEB, Punjab, whereby while rejecting the claim of the petitioners giving them the option for revised master scales, a non-speaking order is stated to have been passed while complying with the order dated 02.09.2013 passed by this Court in CWP No.19280 of 2013.

The short undisputed facts of the case are that revised pay scales were granted to the Govt. Aided Schools w.e.f. 01.01.1986 as per Rules 5 and 6 of the Punjab Privately Managed and Recognized Schools Employees (Security of Service) Rules 1981 (in short 'the 1981 Rules'). The same pay scales are extended to employees of the privately managed aided schools in Punjab as well, in terms of Rule 12 of the 1981 Rules.

The short grouse of the petitioner before this Court as pressed today, is that vide Notification dated 24.12.1992 (Annexure P-1), the
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existing master scales were revised. The new master scales were revised for the teachers of Govt. Aided Schools. Consequent thereto, their options were sought to choose the existing master scales or revised master scales. However, no such option was sought from the teachers of the Govt. Aided Schools.

The matter came up for hearing before this Court through CWP No.19280 of 2013, whereby vied order dated 02.09.2013 the respondents were directed to pass a speaking order on the representation (Annexure P-6). Now, the said order dated 18.02.2014 (Annexure P-12) has been passed, whereby while referring to the order of this Court, following order has been passed:

“With regard to the orders passed by the Hon'ble Punjab and Haryana High Court, it is clarified that as per instructions dated 25.12.1992, benefit has been granted to the teachers of government schools. No such instructions have been issued by the Government for the private Aided Schools teachers. Therefore, the petitioners are not eligible at this time to change the option. Therefore, the claim of the petitioners is rejected.”

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

Undisputedly, the parity is to be maintained between the pay scales granted to the teachers of the Govt. Schools and the Govt. Aided Schools as per Rule 12 (*ibid*). The stand of the State is that when the master scales were revised, vide Notification dated 24.12.1992 (Annexure P-1), the options were sought from the Govt. teachers but no such option was called for from the teachers of Govt. Aided Schools.

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Even in the impugned order (Annexure P-12), a mention has been made that benefit was granted to the teachers of Govt. Schools. No such instruction has been issued to the privately aided schools and on this ground, the representation has been declined.

I am of the view that once the option was sought from the Govt. teachers, the similar option has also to be sought from the teachers of Govt. Aided Schools. Therefore, the impugned order (Annexure P-12) is liable to be set aside.

Learned counsel for the State has argued that this petition was filed in the year 2014 i.e. after the lapse of 22 years. Therefore, the present petition is liable to be dismissed on account of laches and delay.

I am of the view that in case of payment of salary, it is recurring loss and loss is further carried forward in fixation of pension and other benefits. Therefore, in such a case, laches and delay will not come in the way of grant of relief.

The respondents are directed to allow the present petitioners to exercise the option regarding the revised master scales and if they exercise such option, fix the pay accordingly and allow all the consequential benefits.

However, the arrears will be restricted only to 38 months from the date of filing of the representation by the petitioners i.e. 22.03.2013. The necessary order, giving the option shall be passed within two months from the date of receipt of the copy of this order.

As such, the present writ petition is allowed.

(KULDIP SINGH)
JUDGE

July 08, 2016

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