

OFFICE OF DIRECTOR OF PUBLIC INSTRUCTION (S.E) PUNJAB, SAS NAGAR

(Establishment - 2 Branch)

Order No. 20/386-12 E-2(2)

Date: 26/04/2018

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The Following Petitioners namely Dharam Pal, Punjabi Master Government High School Mandhali District Mansa and 11 others (whose detail is being appended as Annexure R1 to the present order) filed civil writ petition No 11089 of 2012 in the Hon'ble Punjab and Haryana High Court inter alia claiming there in to quash the orders dated 19.02.1979 and 20.09.1979 (P-3 and P-4 respectively) to the extent that, it restricts the benefit of pay according to qualifications to the teachers working in the Department of Education, Punjab, who have regularly been appointed as Lectures/Masters/Mistress and also have acquired/possessed the qualifications of M.A/M.Sc/M.Ed. and other higher qualifications prior to 19.02.1979. Further, for issuance of a writ of Mandamus directing the respondents to refix the pay of the petitioners in the light of judgments passed in CWP No. 2632 of 1985 decided on 21.02.1986 and CWP No. 4118 of 1988 decided on 18.11.2010 (Annexure P/6 and P/9 respectively) as the case of petitioners is squarely covered with the decisions rendered by this Hon'ble Court, mentioned above.

The Hon'ble Punjab and Haryana High Court disposed of the said writ petition vide its judgment and order dated 31.5.2012 which is as follows:-

"The petitioners seek grant of increments on acquiring higher qualifications. Counsel for the parties are ad-idem that the controversy involved herein is squarely covered by the decision of this Court rendered in CWP No. 2632 of 1985, Vidya Sagar Singla and others vs The State of Punjab and another, decided on 21.2.1986. In these circumstances, this writ petition is disposed of in the same terms as in CWP No. 2632 of 1985. Copy of this order be given dasti to counsel for the respondents under the signatures of the Court Secretary."

In Compliance with the aforementioned order of the Hon'ble Punjab and Haryana High Court, the undersigned has carefully gone through the judgment of Hon'ble Punjab and Haryana High Court rendered in case of CWP No. 2632 of 1985 Vidya Sagar Singla and others Vs State of Punjab, decided on 21.12.1986, instructions issued vide letter dated 1.9.1960, instructions issued vide letter dated 19.2.1979 and 20.9.1979 and judgment passed in by the Hon'ble Court in similar claim. After careful perusal of the judgment rendered in case of CWP No. 2632 of 1985 Vidya Sagar Singla and others Vs. State of Punjab and others would reveal that through the said judgment it had been held that the petitioners who were either having post-graduate qualification, i.e. M.A/M.Sc/M.Edu at the time of their entry into service or acquired these later during the course of their services, were entitled to advance increments of pay in the light of Instructions dated 1.9.1960 and Instructions dated 19.2.1979 with effect from the date of their entry in the service or the date of acquiring the qualifications. In the said writ petition, the fact that needs to be emphasized is that all the petitioners were appointed prior to 19.2.1979 and they had acquired/ improved their qualifications before this cut off date. In the said writ petition, the claim of the petitioners was that they had

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acquired the qualification of post graduation prior to 19.2.1979 and were appointed before this date, which is the cutoff date for providing qualifications based pay scales to the Masters/Mistresses working in the Education Department, therefore, they should have been given 2/3 advance increments on acquiring the qualification of post graduation. The Govt. had issued instructions dated 1.9.1960 whereby the teachers were awarded 2/3 increments from the date of acquiring qualification of M.A/M.Sc/M.Ed. The Govt. further issued instructions dated 19.02.1979 with objective to fix a cut-off date (19.2.1979) for awarding benefit of higher qualification whereby the teacher of the Education Department shall not become entitled to be placed in the higher scales of pay in terms of Para 3 of the Punjab Govt. letter dated 23.7.1957 automatically on their improving/acquiring higher qualifications during the course of their service. Simultaneously, in order to avoid discrimination between teachers, who have already been allowed higher scales of pay on account of having improved their qualifications and those who have not yet been allowed this benefit, even though they also possess higher qualifications, it was decided that all teachers in the education department, who have improved their qualifications before the issue of this letter, may be allowed the benefit of higher scales of pay on the basis of their qualifications. This benefit shall not be allowed to those, who were appointed or improved their qualifications after the issue of this letter. The cutoff date fixed in particularly in Finance matter by the department/By Govt. has been upheld in so many Hon'ble courts judgments. Whereas, in Vidya Sagar's case the petitioners who were either having post-graduate qualification, i.e. M.A/M.Sc/M.Edu at the time of their entry into service or acquired these later during the course of their services, and were in services before said date were held entitled to advance increments of pay in the light of Instructions dated 1.9.1960 and Instructions dated 19.2.1979 with effect from the date of their entry in the service or the date of acquired the qualifications, whichever is later Whereas the petitioners have joined the service and/or acquired the higher qualifications of M.A-M.Sc etc after 19.2.1979. It may be noticed here that the advance increments are claimed by the petitioners on the strength of the Punjab Government Instructions dated 23.7.1957 followed by subsequent instructions dated 1.9.1960. However, instruction dated 19.2.1979, the State Government consciously took a fresh policy decision as is discernible from Para 3 of these instructions to the following effect:-

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"3 In order to ensure that these unintended and large financial implications do not continue arising in future, the whole matter has been reconsidered by the State Govt. As a result of the reconsideration, the Governor of Punjab is pleased to order that henceforth the teacher of the Education Department shall not become entitled to be placed in the higher scales of pay in terms of Para No. 3 of the Punjab Government letter No. 5058-FR-II-57/5600 dated 23rd July, 1957 automatically on their improving/acquiring higher qualifications during the course of their service. The master and teachers in the Education Department will be placed in the scales of pay of their respective categories to which they are appointed against the sanctioned posts and mere possession/acquisition of higher qualifications prescribed for other categories of posts will not entitle them to automatically claim higher pay scales. However, in order to avoid discrimination between teachers, who have already been allowed higher scales of pay on account of having improved their qualifications and those who have not yet been allowed this benefits, even though they also possess higher qualifications, it is decided that all teachers in the education department, who have improved their qualifications before the issue of this letter, may be allowed the benefit of higher

scales of pay on the basis of their qualifications. This benefit shall not be allowed to those, who are appointed or improve their qualifications after the issue of this letter.

Since, the previous set of instructions, in terms whereof the petitioners claim 2-3 advance increments, have been expressly withdrawn before they joined service and/or acquired higher qualifications, no case to grant the desired relief in favor of the petitioners is made out.

Matter regarding grant of 2/3 increments to the Masters who acquired the higher qualification of post graduation had been subject matter of litigation. Earlier some Master/Mistresses working in the Education Department, who either were appointed after 19.02.1979 or they had improved/acquired the qualification of post graduation after this cut off date, staked their claim that they should also be given 2/3 advance increments on acquiring the higher qualification by preferring Civil Writ Petition No. 11995 of 1989 - Joga Singh and other Vs. State of Punjab, which was allowed by the Hon'ble Punjab and Haryana High Court vide its judgment and order dated 13.10.93. Aggrieved by this decision, the State of Punjab went in appeal by preferring LPA No. 374 of 1994. While deciding the LPA No. 374 of 1994 State of Punjab and others Vs Joga Singh and others, the Division Bench of the Punjab and Haryana High Court had held that the writ petitioners who have joined the service after 19th February 1979, shall not be entitled to the benefit of higher pay scales automatically and they shall be entitled to the benefit of higher pay scales only in accordance with the new policy contained in the Circular, dated 19th February, 1979 in view of law laid down by the Hon'ble Supreme Court of India in the case of Wazir Singh JBT Teacher Vs State of Haryana, JT 1995 (7) SC 404.

While deciding the CWP No.3774 of 1995. Kanwaljit Kaur Vs. State of Punjab and others, reported as 20.11.1995 the Hon'ble Punjab and Haryana High Court after having relied upon various judgments of Hon'ble Supreme Court of India had been pleased to hold that teachers working in the Education Department who either had appointed after 19.02.1979 or they acquired/improved qualifications after the said cut off date are not entitled to the advance increments on their being acquired higher qualifications.

Some of Masters, who acquired the qualification of post graduation after 19.02.1979 filed CWP No. 7514 of 1990 seeking the same claim as has been raised by the petitioners of present case that they should be given 2/3 advance increments on acquiring higher qualification. While dismissing the said writ petition, inter-alia the Hon'ble Punjab and Haryana High Court after having relied upon the various judgments of Hon'ble Supreme Court of India including the case of kanwaljit kaur (Supra) vide its judgment and order dated 21-5-2009, inter-alia, observed that 1957 letter had linked the pay scale with the qualifications and that on 19-02-1979 the qualifications were de-linked from the pay scale and the pay scales were confined to the post held by an incumbent. The writ petition of the petitioners was dismissed on the ground that the petitioners had either acquired the qualification after 19.02.1979 or they had come into service after the said date.

Apart from this, with a view to provide for granting of pay scales of teachers as per rules with effect from 1.1.1986 and for the matters connected therewith or incidental there to and to remove disparity and discrimination within

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