

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION (SE) PUNJAB.

(Establishment Branch - II)

Order No. 20/107-19 E-II(2)

Dated, SAS Nagar: 09.08.2019

The following petitioners who belong to Secondary Wing of the Department of School Education namely:-

1. Pawan Kumar Aged 68 Years (Retd.) S.S. Master S/o Vashishat Dev, Govt. Sen.Sec. School (Girls), Mansa, Distt. Mansa. R/o Ward No. 12, Rishi Street, Vinod Nagar, New Basti, Mansa.
2. Madhu Bala Aged 59 Years Wd/o Late Sukhdarshan Kumar Singla (Retd.) Hindi Teacher S/o Basant Lal Singla, Govt. High School, Ralla, Distt. Mansa. R/o Lal Chand M.C. Street, Jawaharke Road, Mansa.
3. Manohar Dass Aged 60 Years (Retd.) Lect. English S/o Barkha Dass, D.I.E.T.Ahmedpur, Distt. Mansa, R/o H.No.49, Phase -1, Green City, Bathinda.

filed CWP No. 14761 of 2019, which was disposed of by the Hon'ble Punjab and Haryana High Court vide order dated 29.05.2019 with the following operative order:-

" In view of the request made, without expressing any opinion on the merits of the case or the claim being made by the petitioners, the respondents are directed to decide the legal notice dated 26.02.2019 (Annexure P-7) by passing a speaking order within a period of three months from the date of receipt of a certified copy of this order. In case after the decision, it is found that the petitioners are entitled for any monetary benefit, the same shall also be released to them within a period of next three months.

It is made clear that in case the petitioner are found entitled for the relief as being claimed by them, the arrears will be restricted only upto three years and two months prior to the date of filing of the present writ petition.

Present writ petition stands disposed of."

2. In order to decide claim of the petitioners in due compliance with the above said directions of the Hon'ble Punjab and Haryana High Court, the contents of legal notice dated 26.02.2019 have been perused. In the said legal notice, the petitioners have asserted that while working as JBT/Hindi/Punjabi/Art & Craft/PTI/Social Studies//Domestic Science Teachers etc. they had acquired higher qualification in terms of the Govt. Circular dated 23.7.1957 and according to Government instructions, they were entitled for higher pay scales keeping in view the fact that they had acquired higher qualifications prior to 19.2.1979 and had joined before the said date. The precise claim of the petitioners is that they are

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entitled to the grant of benefit of Masters/Mistresses/JST scale with an initial start of Rs. 660/- w.e.f. 1.1.1978 and they have prayed for the release of said benefit in view of decision of Hon'ble Punjab and Haryana High Court given in CWP No. 3931 of 1992 titled as Baldev Raj Mittal and others Vs., State of Punjab and others, decided on 15.4.2009 against which an LPA No. 504 of 2012 preferred by the State had already been dismissed.

3. The said judgement of Hon'ble Court passed in CWP No. 3931 of 1992 was also perused, the operative part of which reads as under:-

"In view of the aforesaid position and the order passed by the State Government, all these petitions are disposed of with a direction to the respondents to place the petitioners in the pay scale of Rs. 110-250/- with effect from the dates the petitioners have acquired higher qualification. They shall be entitled to subsequent pay revisions, if any. Let the benefit be granted to the petitioners with is a period of three months from the date a certified copy of this order is made available to the competent authority. No cost".

4. After perusal of official records, it has come to knowledge that the petitioners had acquired higher qualifications, the detail of which alongwith dates of such acquisition is as under:-

| Name of the petitioner Sarv Sh./Smt. | Nature of higher qualification | Date of acquisition of higher qualification |
|-----------------------------------------|-----------------------------------|------------------------------------------------|
| Pawan Kumar | BA part-III | 02.07.1975 |
| Sukhdarshan Kumar singla | BA part-III | 09.12.1979 |
| Manohar Dass | BA part-III | 27.09.1979 |

5. In the said representation, the applicants have claimed that as per judgement of Hon'ble Punjab and Haryana Court delivered in CWP No. 3931 of 1992 Baldev Raj Mittal and others Vs. State of Punjab, decided on 15.4.2009 they are entitled to the pre-revised pay scale of Rs. 110-250 on acquiring the higher qualification of BA.

6. It is on the record that against the decision of CWP No. 3931 of 1992, an LPA No. 504 of 2012 preferred by the State of Punjab was dismissed by the Hon'ble Punjab and Haryana High Court vide order dated 22.5.2012. Though against the said decision SLP No. 1868/2013 filed by the Elementary wing of the department has been dismissed by the Apex Court on 4.9.2013 but one SLP preferred by the Secondary Wing of the department is still pending in the Apex Court.

7. 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 thereto and to remove disparity and discrimination within the same class of teachers and to avoid undue and un-reasonable financial liabilities on the State Exchequer, the Punjab Government promulgated an Act namely the Punjab Pay Scales of Teachers Act, 2004. Section 3 of the said Act reads as under:-

"3. Notwithstanding anything contained in any instructions, rule or other law for the time being in force and any judgment, decree, order or decision of any Court, Tribunal or Authority, the teachers shall be entitled only to the pay scales of the posts held by them, which were granted under the Punjab Civil Services (Revised Pay) Rules, 1988, read with Finance Department Notification No. 10/3/89- FPI/953, dated the 20th January, 1989 and the State Government Notification No. 11/64/87- 2 Edu. 6/666, dated the 17th February, 1989, irrespective of their qualifications with effect from the 1st day of January, 1986, and nothing more than that shall be payable to them".

8. It is also on the record that the enactment of the said Act had been subject matter of controversy in CWP No. 14634 of 2009 Beant Singh and others Vs. State of Punjab and others and connected petitions. While delivering the judgments in the said matters on 30.8.2010, this Hon'ble Court has been pleased to uphold the validity of the said Act. In view of this, all the teaching personnel are entitled to those pay scales which were sanctioned for their post after 1.1.1986 onwards irrespective of their qualification. However, qualification based higher pay scales were to be given to eligible teaching personnel upto 31.12.1985.

9. In view of the aforesaid settled legal position, all the above said petitioners, whose detail is mentioned in opening para of this order are hereby granted un-revised pay scale of Rs. 110-250 and subsequent revised corresponding pay scale from the dates they had acquired qualification of BA as indicated in para 4 of this order subject to the following conditions:

- (a) That the said petitioner should have acquired the said higher qualification prior to 19.2.1979 and he should have appointed on regular or adhoc basis prior to the said date.
- (b) That a testimonial copy of certificate of qualifications of the above said petitioners shall be kept on record and authentication and genuineness of the same shall be ensured by the concerned Drawing and Disbursing Officers.
- (c) That the benefit of higher pay scale shall be admissible upto 31.12.1985 as per provisions contained in the Punjab Pay Scales of Teachers Act, 2004.

