

Office of Director Public Instructions (Secondary Education),
Punjab.

Education Complex (Punjab School Education Board) Block-E,
Phase-8, S.A.S. Nagar (Mohali)

(Service-3 Branch)

Order No. E-188356-13/40-2021 Service 3(2)/202272496-509

Dated: 03-10-2022

Orders

Sh. Kashmir Singh, Retd. Lecturer Political Science S/o Tara Singh Government Senior Secondary School, Town Hall, Amritsar and others filed Civil Writ Petition no. 8515 of 2015 in the Hon'ble Punjab and Haryana High Court with the prayer for issuance of writ in the nature of mandamus directing respondents to fix and revise pension and other pensionary benefits on the basis of last salary drawn by them in the higher scale prescribed for higher post as they have been superannuated from service upon attaining their age of superannuation while performing duties on higher posts by officiating/ holding Current Duty Charge on higher post. The Hon'ble High Court dismissed this writ petition along with bunch of petitions vide order dated 13.07.2016. The petitioner challenged this order by way of LPA No. 397 of 2017 in CWP No. 8515 of 2015. This LPA No. 397 of 2017 was decided by the Division Bench of Hon'ble Court in terms of LPA No. 37 of 2017. This LPA was decided by the Hon'ble Court vide order dated 25.09.2018 along with LPA No. 37 of 2017 in CWP No. 17358 of 2015. The relevant part of order dated 25.09.2018 is reproduced here as under:-

"[4] We have heard learned counsel for the parties at a considerable length and are of the view that the appellants cannot take undue advantage of their own inaction or wrongs. Seniority is a condition of service. It has to be determined at the earliest in accordance with the Rules governing conditions of service. If any delay occurs because of multiple Court proceedings, the authorities ought to have evolved some mechanism to grant regular promotions to the senior most Lecturer/ Master/ Mistresses, for promotion is also a legitimate expectation in service career. The controversy nevertheless

does not require further deliberations, for necessary directions to consider and promote the Lecturer/ Master/ Mistresses on higher posts as per their seniority and other eligibility conditions have already been issued by this Court in the above-cited order dated 23.05.2017. Let those directions be complied with within the time-frame given in the cited order. The respondents in the lead case or the writ petitioners in the connected petitions shall also be considered for regular promotion as per their seniority and eligibility conditions from the due date and in accordance with the Rules, which were in vogue at the time of occurrence of vacancies. While the promotions shall be granted retrospectively but on notional basis only and they shall be entitled to fixation of their pension and other retiral benefits as per the pay deemed to have been drawn by them on the higher promotional posts. They shall also be entitled to arrears of pension and other retiral benefits along with interest @7% per annum. The needful shall be done within a period of six months. However, if the respondents in the lead case and the writ petitioners in the connected cases have not been granted emoluments for the period they officiated/worked on the higher posts, let such claim be also considered within a period of four months."

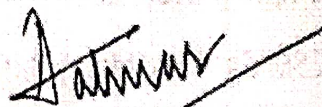
The department then preferred Review Application No.10 of 2019 in LPA No.37 of 2017. This review application was dismissed by Division Bench of Hon'ble High Court vide order dated 13.09.2019. As a consequence, the order dated 25.09.2018 passed by the Hon'ble Court in LPA No. 37 of 2017 attained finality, as no SLP was filed based on the opinion of Advocate General, Punjab.

The petitioners no. 1 to 3, 6 to 9 and 11 to 14 have retired as Lecturers from the Department. In order to redress the grievance of the petitioners, the claim of the petitioners has been examined on the basis of record provided by the District Education Officers concerned as well as instructions issued by the Government from time to time. The petitioners were working as Lecturers in the Education Department and at that juncture, the petitioners being senior most in their school were given powers of drawing and disbursing officer in order to draw the pay of employees of school concerned for its smooth functioning. It was merely a stop gap arrangement, as the post of Principal was lying vacant during that tenure in the school concerned. It is worthwhile to mention here that the petitioners were not senior in their cadre based on the

5. The last pay drawn of current duty charge shall not be counted towards giving pensionary benefits. The pensionary benefits of the employees shall be calculated based on the original last pay drawn presuming that the employee was not in the CDC charge."

A perusal of the relevant record reveals that the petitioners being senior in the school, officiated on the higher post of Principal on account of vacant post of Principal in their respective schools, for which the petitioners have already been paid the financial benefits for the period they officiated on the higher post. Moreover, it was a mere temporary stop gap arrangement in order to enable them to draw the pay of employees of school concerned. It is further evident from the record that the salary of the petitioners was again fixed as per their original post i.e. the post of Lecturer, when their charge of higher responsibility was withdrawn. Moreover, the petitioners were never promoted to the post of Principal based on their seniority in their respective cadre. The petitioners even did not fall within the promotion zone for higher post while they officiated against the higher post. Therefore, the claim of the petitioners for the purpose of fixation of their pay on the basis of last pay drawn for fixing their pension is not maintainable as per the directions of the Hon'ble Court passed in LPA No. 37 of 2017 in CWP No. 17358 of 2015.

Therefore, after considering the grievance of the petitioners for fixation of their pay on the basis of last pay drawn by them in officiating capacity as Principal, I, Jaspreet Talwar, I.A.S., Principal Secretary to Government of Punjab, Department of School Education, have reached the conclusion that the claims of petitioner no. 1 to 3, 6 to 9 and 11 to 14 is not maintainable and are hereby rejected. The claims of the remaining petitioners will be decided by DPI (S.E) as well as DPI (E.E) Punjab, as there are the competent authorities for the same.



Jaspreet Talwar, I.A.S.,
Principal Secretary to Government of
Punjab, Department of School Education

Endorsement No. As above

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Dated S.A.S. Nagar: - 17/10/22

A copy of speaking order is forwarded to the following for information and necessary action: -

1. Principal Secretary to Government of Punjab, Department of School Education (Edu-2 Branch), Punjab Civil Secretariat-II, Sector-9-D, Chandigarh.
2. Legal Cell office of D.P.I (SE) Punjab.
3. Superintendent Writs (Writ Section) of Hon'ble Punjab & Haryana High Court.
4. District Education Officer (S.E), Amritsar, Ludhiana, Gurdaspur, Tarntaran, Sangrur and Mansa.
5. Kashmir Singh (Retd.) Lect. Pol. Sc. S/o S. Tara Singh, R/o H. No. 42, Aman Avenue, Opposite Side Gate Hakima, Amritsar.
6. Amar Singh (Retd.) Lect. Pol. Sc. S/o S. Bachitter Singh, R/o H. No. 18, Avtar Nagar, P.O New Raj Guru Nagar, Ludhiana.
7. Chaman Lal (Retd.) Lect. Math, S/o Sh. Pali Ram, R/o H. No. 64, Employees Colony, Budhlada Road, Barota, Distt. Mansa.
8. Nanak Singh (Retd.) Lect. Political Science S/o Mohinder Singh, R/o H. No. 65/250, Shastri Nagar, Batala, Distt. Gurdaspur.
9. Gobinder Singh (Retd.) Lect. Economics S/o S. Gurdial Singh, R/o, H. No. 1275, Phase-II, Mohali.
10. Veer Singh Bajwa (Retd.) Lect. Political Sc. S/o Baj Singh R/o Vill Bhadur Hussain, P.O Massanian, Teh. Batala, Distt. Gurdaspur.

11. Narinderjit Singh (Retd.) Lect. English S/o Sh. Isher Singh, R/o Sandhu House, College Road Longowal, Distt. Sangrur.
12. Gian Singh (Retd.) Lect. Commerce S/o S. Dial Singh, R/o Village Palasour, P.O. Bhalwan, Teh. Dhuri, Distt. Sangrur.
13. Nehru Lal Jindal (Retd.) Lect. Economics S/o Sh. Chanan Ram, R/o H.No. 32, Dr. K.P Singla Street, Water Works Road, Mansa.
14. Hardip Singh (Retd.) Lect. Political Science, S/o Sohan Singh, R/o Ward No. 11, College Road, Patti, Distt. Tarn taran.

Assistant Director

O/o Director Public Instructions (S.E), Punjab.

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