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BOARD OF SCHOOL EDUCATION (SECONDARY) PUNJAB
SPEAKING ORDER

Order No. 13077 DTCL 131208/96/2020 ESTABLISHED 2 DTCL

Dated, SAN Nagar - 05.06.2023

Kamla Devi, aged 69 years (Retd.) Head Teacher, D/o S/o Kheta Ram, Govt. Primary School, Drakha Block Shimla, District Harimda, R/o H.No. B.V/165, Model Town, Tapa, District Harimda and 6 others (details of whom is annexed with this order) filed CWP No. 13575 of 2021 for granting them initial pay of Rs 660/- in Master Scale 620-1200 w.e.f 01.01.1978. The Hon'ble Punjab and Haryana High Court disposed of the petition vide order dated 28.07.2021. The operative part of the order reads as under :-

"In view of the limited prayer made by learned counsel for the petitioners and without commenting upon the merits of the case, the present writ petition is disposed off with a direction to the respondents to take a decision on the legal notice dated 03.11.2018 (Annexure P-8) by passing a speaking order expeditiously, in accordance with law, and in any case within a period of three months from the date of receipt of a certified copy of this order. In case the petitioners are found entitled to any monetary benefits, the same shall be released to them within a period of three months thereafter.

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

2. In order to decide claim of the petitioner no. 2, 4 and 5 who are under the administrative control of the undersigned the contents of legal notice dated 03.11.2018 (P-8) have been perused. In the said legal notice, the petitioners have asserted that they had acquired higher qualification in terms of Govt. Circular dated 23.07.1957 and according to Government Instructions they were entitled for higher pay scales keeping in view the fact that they had acquired higher qualification prior to 19.02.1979 and had joined before the said date. The precise claim of the petitioners is that they are entitled to benefit of Master/Mistress/JST scale with an initial start of Rs. 660/- w.e.f.

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01.01.1978 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 15.04.2009 against which a LPA No. 504 of 2012 preferred by the State had already been dismissed.

3. The said judgement of Hon'ble Court passed 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 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 notice that petitioner no. 2, 4 and 5 had acquired higher qualifications, the detail of which along with dates of such acquisition as under:-

Name	Nature of Higher Qualification	Date of acquisition of Higher Qualification
Subhash Chand	B.A (TDC) Part-1/FA	1972
Ram Bax Singh	B.A (TDC) Part-1/FA	1976
Amita Sharma	B.A (TDC) Part-1/FA	1977

5. In the said legal notice, the petitioners have claimed that as per judgment 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 15.04.2009 they are entitled to the pre-revised pay scale of Rs. 110-250 on acquiring the higher qualification of BA (TDC) Part-1.

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 22.05.2012.

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 04.09.2013 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 01.01.1986 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- FP1/953, 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 in the said matters on 30.08.2010, 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 01.01.1986 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, above said petitioners who are under the administrative control of the undersigned are hereby granted pre-revised pay scale of Rs. 110-250 and subsequent revised corresponding

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pay scale w.e.f. 06.05.1975, 01.04.1977 and 17.12.1977 subject to the following conditions:

- a) That the said petitioner should have acquired the said higher qualification prior to 19.2.1979 and should have been appointed on regular or adhoc basis prior to the said date.
 - b) That a testimonial copy of certificate of qualifications of the above said petitioner shall be kept on record and authentication and genuineness of the same shall be ensured by the concerned Drawing and Disbursing Officer.
 - c) That the benefit of higher pay scale shall be admissible up to 31.12.1985 as per provisions contained in the Punjab Pay Scales of Teachers Act, 2004.
 - d) That the said petitioner shall be entitled to the arrears of pay up to 38 months from filing of this writ petition i.e 18.07.2021.
 - e) That any decision to be given by the Apex court in pending SLP shall be binding on the petitioners.
 - f) The concerned Drawing and Disbursing Officer shall be responsible for revision of pensionary benefits of the above said petitioner, if be needed, from the Accountant General, Punjab, Chandigarh.
10. With the aforesaid order, the claim of the said applicant petitioner shall stand disposed of.

Anand Sagar Sharma, PCS
Director School Education (Secondary) Punjab

Endst. No Even: 2023159202-202 Dated, S.A.S Nagar: 8/6/2023

A copy of the above is sent to the following for information and necessary action:

1. District Education Officer (S.E) Mansa and Bathinda is being directed to inform the petitioners at their own level.
2. Sh. Vikas Chatrath, Advocate, House No. # 174, Sector 21-A, Chandigarh.
3. Director Public Instructions (E.E) Punjab, Punjab School Education Building, Phase-8, S.A.S Nagar.

4/05/23
Assistant Director
School Education (S.A-2)

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ਦਫਤਰ ਜਿਲ੍ਹਾ ਜਿਲਿਆ ਮਾਫ਼ਕਰ (ਜੇ.ਜੇ.) - ਮਾਫ਼ਕਰ

ਪਿਛੇ ਅੰਕਿਤ ਕੀ: ਮਾ-1/1 (1) 2023/ਜਪੀਓਐ ਮਾਫ਼ਕਰ/2023/63520-22

ਦਿਤੀ - ਮਾਫ਼ਕਰ 13-06-2023

ਵਿਤਰਾ ਜੇਤ ਜਿਲਿਆ ਕੀ ਸੂਚਨਾ ਅਤੇ ਫੰਡੀਓ ਕਾਰਵਾਈ
ਦਿੱਤੇ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ:-

1. ਪ੍ਰਿੰਸੀਪਲ ਨਰਕੀ ਜੈਵੀਤੀ ਸਕੂਲ ਜਿਲਿਆ/ਸੂਚਨਾਤਾ ਕੀ
2. ਪਰਿਕਰਮ:- ਰਾਮ ਬਖਸ਼ ਪੀ.ਐ.ਆਈ ਰਿਟਾ: ਜਲਮ ਜਿਲਿਆ
3. ਪਰਿਕਰਮ:- ਸੂਚਨਾ ਜੋਇਤ ਸ.ਫ.ਮਾਫ਼ਕਰ ਰਿਟਾ ਜਰੋਲਮ ਪੁਰਖੋਤਾ

[Signature] 14/06/2023
ਜਿਲ੍ਹਾ ਜਿਲਿਆ ਮਾਫ਼ਕਰ (ਜੇ.)
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