BAIJ NATH AND ORS.

v.

THE STATE OF PUNJAB AND ANR.

MARCH 19, 1996

[G.N. RAY AND B.L. HANSARIA, JJ.]

Service Law : Entitlement to higher payscale—Held, teachers/masters in the High Schools of Punjab entitled, on acquisition of post-graduate degree, to a higher pay scale, meant for lecturers, in terms of the government letter dated 23 July 1957.

The appellants approached the High Court seeking a direction to the respondents to pay them the scale meant for lecturers on acquiring post-graduate qualification. Denying their prayer, the High Court held that the post of lecturer did not form part of the High School cadre. Hence, this appeal.

Allowing the appeal, this Court

Held : 1.1. The teachers in the High Schools of Punjab who acquired the post-graduate qualification became entitled to higher pay from the date of acquisition of the qualification as contemplated in the letter of 23rd July 1957 issued by the Government of Punjab. [541-H; 542-A]

1.2. The school cadre came to consist of lecturers also from 1969 in terms of Education Department's Notification of 9th December 1969. [541-C]

Chaman Lal **v.** *State of Haryana,* **[1987] 2 SCR 923, relied on.**

State of Punjab **v.** *Kirpal Singh,* **AIR (1976) SC 2459 = [1976] 1 SCR 529 and** *Gurpal Tuli* **v.** *State of Punjab,* **AIR (1984) SC 1901 = [1985] 1 SCR 882, referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4544 of 1996.

From the Judgment and Order dated 29.5.92 of the Punjab & Haryana High Court in C.W.P. No. 4646 of the 1992.

M.K. Tiwari for Ms. Kusum Chaudhary for the Appellants.

Ranbir Yadav for G.K. Bansal for the Respondents.

The Judgment of the Court was delivered by

HANSARIA, J. Leave granted.

2. The appellants approached the High Court of Punjab and Haryana seeking a direction on the respondents, which were the State of Punjab and the Director of Public Instructions (Schools), to pay them according to the scale meant for Lecturers, on their acquiring post graduate qualification, in terms of Government letter No. 5058-FE-II-57/5600 dated 23.7.1957 read with Government letter No. 8937-5 ED-II-79/2659 dated 20.9.1979. The Division Bench of the High Court has denied the prayer. Hence this appeal under Article 136 of the Constitution.

3. The Government letter of 23.7.1957 is on the subject of revision of scale of pay of low paid Government servants. So far as the teachers in Education Department are concerned, they have been dealt in Para 3 and it speaks about the decision of the Government to place all teachers according to their qualifications in two broad categories : A and B. As to Category A, whose educational qualification is mainly graduation in different disciplines, it has been stated that they would get a scale (Rs. 110-250) with higher start for M.A. or M.Sc. This Court had occasion to lay down the purport of this letter in *State of Punjab* v. *Kirpal Singh,* AIR (1976) SC 2459 = [1976] 1 SCR 529. Ray, CJ., speaking for a three-Judge bench stated this did visualise a mass increase of scale of pay. The contention of the State counsel that the letter only meant that a teacher who passed graduate examination would be entitled to be appointed as Master, and on being so appointed he would be entitled to the scale of pay, was not accepted. It was stated that the teachers who possessed degrees became entitled to scales of pay according to Category A.

4. The State found it difficult, having regard to the prevailing financial position, to extend the benefit of that letter to the much wider section of teachers, and so, it issued a circular on 19.2.1979 stating that the teachers of the Education Department would not automatically be entitled to placement in the higher scales of pay by the mere circumstance of their improving or acquiring higher qualifications in the course of their service. The teachers agitated and wanted a more generous dispensation. Thus led to the issuance of the letter of 20.9.1979 permiting grant of higher scale the

from date of passing of the respective higher examination. It may be pointed out that the State of Haryana had also passed a similar order on 5.9.1979 and this Court in *Chaman Lal* v. *State of Haryana,* AIR (1987) SC 1621 = [1987] 2 SCR 923, had held that the teachers acquiring B.T. or B.Ed qualification became entitled to higher pay scale from respective dates of acquiring the qualification.

5. There is no difficulty so far. The question is whether the teachers in the High Schools, on the acquisition of post-graduate degree, are entitled to the scale of paymeant for Lecturers. The High Court has denied the same on the ground that the post of Lecturer does not form part of the High School cadre. According to the appellants this is not correct in so far as the State of Punjab is concerned, inasmuch as, though the Punjab Educational Service, Class III, School Cadre Rule, 1955 when made, consisted of Headmasters and Masters only, but by Education Department's Notification of 9th December, 1969, the post of Lecturers had come to be added in the cadre. (It may be mentioned that this Notification was issued to supersede Notification of 4.7.1969 on the same subject because in that Notification the word "Lecturers" was not mentioned through inadvertence). It is thus clear that the school cadre came to consist of Lecturers also from 1969.

6. In the aforesaid premises the question is whether on acquisition of post-graduate qualification the teachers in the High Schools are entitled to the pay scale meant for the Lecturers. To sustain this stand, reliance has been placed on Memo No. 3101-E II 64/8950 dated 21st May, 1964 and it has been contended that Masters of the schools in the revised pay scales had come to be designated as Lecturers. A perusal of the memo, however, shows that it dealt with Masters in the Government Higher Secondary Schools, and not in the *High* Schools, with whose teachers we are concerned in the present appeal. So, the appellants cannot lay their claim on the pay scale meant for Lecturers on the ground that their posts having been designated as Lecturers they are entitled to the same.

7. But this is not all inasmuch as the letter of 23.7.1957, read with that of 20.9.1979, does permit higher pay scale for post graduates; and that too from the date of acquisition of the same, as held by this Court in *Chaman Lal's* case. We would, therefore, state that the teachers in the High Schools of Punjab, who acquired the post graduate qualification, became entitled to such higher pay from the date of acquisition of the

qualification, as was contemplated in the letter of 23.7.1957. It may be stated that the subject matter of *Gurpal Tuli* v. *State of Punjab,* AIR (1984) SC 1901 = [1985] 1 SCR 882, referred by Shri Yadav for the respondents, is different and it has not stated anything contrary to what we have held.

8. The appeal is allowed accordingly. Appropriate order in the light of what has been stated above shall be passed relating to the appellants within six weeks from today and consequential financial benefits shall be made available within eight weeks thereafter. In the facts and circumstances of the case the parties are left to bear their own costs.

Appeal allowed.