

(2012) 03 P&H CK 0045

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 5952 of 2006

Mrs. Tripta Sharma

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: March 30, 2012

Acts Referred:

- Punjab Pay Scale of Teachers Act, 2004 - Section 3

Hon'ble Judges: Hemant Gupta, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Hemant Gupta, J.

Petitioner is the Classical and Vernacular Teacher (C & V) working in the Punjab Education Department. Petitioner claims higher pay scale in accordance with her higher education qualifications in accordance with the circular dated 23.7.1957. Challenge in the present writ petition is to the Punjab Pay Scale of Teachers Act 2004 (for short the "Act"), whereby the pay scales were de-linked w.e.f. 1.1.1986 in terms of Section 3 of the Act for the purpose of pay and the pay was linked with the post. The legality and validity of the aforesaid Act was challenged and has been upheld by the Division Bench of this Court in CWP No. 14634 of 2009, Beant Singh v. State of Punjab, 2011 LIC 869, wherein, it has been held to the following effect: -

A bare perusal of the aforesaid recitals and long title of the Act would show that the legislature has made an endeavour to delink the pay scale from the higher qualification but have confined the pay scale to the post held by a Teacher/Master/Mistress etc. By way of illustration if a JBT Teacher holds the degree of B.Ed., which is higher qualification for Master then such a JBT Teacher would continue to work with the pay scale admissible to that post. He would not get any extra increment for higher qualification or get the pay scale of Master on account of qualification which answers the higher post of Master. The Act has rendered ineffective the policy instructions dated 23.7.1957 and 19.2.1979, which in fact, were

the basis of various judgments including State of Punjab and Another Vs. Kirpal Singh Bhatia and Others. Therefore, the Act cannot be regarded as mere declaration by the legislature directly overruling, revising or overriding a judicial decision. The Act enacted by the State legislature is concededly within its competence. There is not even any challenge to the competence of legislature to frame such a law. It does not suffer from any vice of arbitrariness or discrimination. On the contrary it seeks to bring parity in the pay scale of all the incumbents holding same post without granting any higher pay for higher qualification then the necessary ones.

2. In view of the aforesaid judgment, upholding the constitution validity of the Act, the present petition is dismissed in the same terms as in Beant Singh case (supra).