

PETITIONER:
STATE OF HARYANA & ORS.

Vs.

RESPONDENT:
RAI CHAND JAIN & ORS. ETC. ETC.

DATE OF JUDGMENT: 21/04/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Substitution allowed.

Leave granted. We have heard counsel on both sides.

These appeals by special leave arise from the judgment and order dated 2.11.1995 of the High Court of Punjab & Haryana made in CMP No, 13493/91 & batch. It is not necessary of narrate all the factual details. Suffice it to state that the respondents claim payment of salary in the selection grade pay-scales which the High Court has granted them. while we have taken the matter for final disposal, Shri Pankaj Kalra, learned counsel for the respondent, has brought to our notice the order issued by the Government on August 20, 1996 signed by the Joint Secretary (Finance), for Financial Commissioner & Secretary to Government, Haryana, Finance Department which reads as under:

"I am directed to invite your attention to the subject noted above and to say that prior to 1.4.79 the Selection Grade to Grout C & D Category employees was admissible on the basis of the number of permanent posts in a particular cadre and later on, till 1.1.86, the date on which this practice was altogether abolished, for determining the number of the Selection Grade posts, the temporary posts in existence for the Selection Grade posts, the temporary posts in existence for the preceding three years were taken into account.

CWP No. 2143 of 1994 and 11255 of 1995 were filed in the High Court by some teachers of the Education Department and while disposing these off, Hon'ble High Court directed to grant the selection grade on the basis of total strength, including permanent

and temporary posts, with all consequential benefits, to the petitioners. Thus the employees of the Education Department have already been granted this benefit as per the judgment.

The Government has, therefore, decided that the selection grade wherever available prior to 1.1.86 may be worked out on the basis of total strength including permanent and temporary posts and all consequential benefits including arrears of 38 months preceding the date of such decision, be allowed to eligible employees."

In view the above direction, we are of the view that since the Government itself has accepted to compute the selection grade wherever available prior to 1.1.86 and to work it out on the basis of the total strength of the cadre including permanent and temporary posts with consequential benefits including arrears for 38 months preceding the date of the decision, i.e., dated 20.8.1996, these cases need no interference.

Mr. Pankaj Kalra, learned counsel has stated that fixation of 38 months for payment of arrears is arbitrary. We find no force in the contention. It is for the Government to decide as a part of the executive policy as to from which date the arrears would be granted to the employees. The matter being executive policy in character, we do not think that the decision taken by them is arbitrary violating Article 14 of the Constitution.

In view of the above order, we think that there is nothing for this Court to interfere with the judgment of the High Court. The appeals are accordingly dismissed. No costs. CA No. _____ @

S.L.P. (C) No. 11705/95

Though the respondents have been served, none is appearing either in person or through counsel. The controversy raised in this case is covered by the judgment of this Court in State of Haryana & Anr. v. Ravi Bala & Ors. [(1997) SCC 267]. In paragraph 4, this Court, following the decision in Wazir Singh v. State of Haryana [(1995) Supp. 3 SCC 697] has held that such of the teachers who have obtained the B.T. or B.Ed. degree would be entitled to higher grade with effect from the respective dates of their acquiring that qualification. Therefore, they are not entitled to higher scales of pay prior to the date of acquiring qualifications.

The appeal is accordingly allowed. No costs.