A STATE OF HARYANA AND ANR.

v.

RAVI BALA AND ORS.

NOVEMBER 26, 1996

B [K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law—Policy instructions issued by Government of Haryana dated 9.3.1990—Teachers—Parity of pay scales—Acquisition of higher qualifications claim for higher scales on the basis of qualification—Respon-
C *dents appointed as Junior Basic Teachers—Subsequently they acquired higher qualifications—Their claim for higher pay scales allowed by High Court—Appeal by State—Held, teachers who acquired the qualifications on and after 9.3.1990 are not entitled to higher scale of pay—Government circular dated 9.3.1990—Held, prospective in application.*

D *Wazir Singh* **v.** *State of Haryana,* **[1995] Supp. 3 SCC 697, referred to.**

Chaman Lal **v.** *State of Haryana,* **[1987] 3 SCC 213, held inapplicable.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 15401 of 1996.

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From the Judgment and Order dated 6.3.95 of the Punjab & Haryana High Court in C.W.P. No. 10548 of 1994.

Ajay Siwach for Prem Malhotra, Adv. for the Appellants.

F Pankaj Kalra for the Respondents.

The following Order of the Court was delivered :

Leave granted.

G We have heard learned counsel on both sides.

The respondents had filed writ petition claiming higher scale of pay on their acquiring B.T./E.Ed. qualification. Admittedly, they were appointed as Junior Basic Teachers. They improved their qualifications and claimed parity on the basis of the letter issued by the then Punjab Govern-
H ment on July 23, 1957 in Circular No. 5056-FR-11/57. The High Court

issued the directions. Thus, this appeal by special leave. A

The controversy is covered by the Judgment of this Court in *Wazir Singh* v. *State of Haryana,* [1995] Supp. 3 SCC 697, wherein this Court had held while dealing with the revision of the pay-scale of Government employees, i.e., teaching personnel of the Education Department, the Government of Haryana had in their policy instructions dated March 9, B 1990 expressed in unequivocal terms that the intention to retract from the earlier principle that teachers acquiring the B.T. or B.Ed. degree would be entitled to the higher grade with effect from the respective dates of their acquiring that qualification. Therefore, as they did not acquire the qualification before 9.3.1990, they are not entitled to the benefit of the C higher grade of pay automatically.

It is contended by Shri Pankaj Kalra, learned counsel for the respondents, that this controversy was considered by this Court in *Chaman Lal* v. *State of Haryana,* [1987] 3 SCC 213, and the Government cannot by the memo dated March 9, 1990 set at naught the judgment of this Court. We D find no force in the contention. It is seen that the Government have specifically explained in their letter that though the composite Punjab State had issued the above circular which was accepted by the Kothari Commission, the Government of Haryana after its letter dated January, 5, 1968 had not followed that Punjab Order. However, it was construed that the Government have adopted the above letter. In that light, they had recon- E sidered the entire issue and stated in paragraph 6 of the letter thus :

> "6. In order to remove the confusion being created by misconstruing the intention of the Govt., the whole matter has been reconsidered by the State Govt. As a result of the reconsideration, the F Governor of Haryana is pleased to clarify that the teachers of the Education Department are not entitled to be placed in the higher scales of pay in terms of para 2 of the Punjab Govt., letter No. 5056-F-11-57/6600 dated 23rd July, 1957 or any subsequent letters/notifications issued by the Haryana Govt. referred to in the G preceding paras, which letters already become inoperative on their improving/acquiring higher qualifications during the course of their service automatically. The masters/teachers in the Education Department will be placed in the scales of pay of their respective to which they are appointed against the sanctioned posts and mere possessing/acquiring of higher qualifications will not entitle them H

A automatically to claim higher pay scales."

This letter was considered by this Court in *Wazir Singh's* case and it was held that those who acquired the qualifications are not automatically entitled to the fitment in the higher pay scales. In the judgment in *Wazir Singh's* case itself it was mentioned in para 10 that the counsel appearing B for the State had conceded that all those who had acquired B.T. and/or B.Ed. before March 9, 1990 would be entitled to get higher scales of pay in terms of para 2 of the Punjab State's letter dated July 23, 1957. Therefore, the circular of the Government dated March 9, 1990 would be prospective in operation; it would be applicable to those candidates who C acquired the qualifications on and after the said date and they are not entitled to higher scale of pay.

The appeal is accordingly allowed, but in the circumstances, without costs.

T.N.A. Appeal allowed.