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WP-19697-2022

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 16<sup>th</sup> OF MAY, 2025

WRIT PETITION No. 19697 of 2022

*JAGDISH CHANDRA CHAWDA*

*Versus*

*SCHOOL EDUCATION DEPARTMENT AND OTHERS*

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Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Anand Bhatt - G.A for the respondent/State.

.....  
WITH

WRIT PETITION No. 19698 of 2022

*MANGILAL TAILOR*

*Versus*

*SCHOOL EDUCATION DEPARTMENT AND OTHERS*

.....  
Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Anand Bhatt - G.A for the respondent/State.

.....  
ORDER

Regard being held to the similitude of the nature of the petition and reliefs both the petitions are being disposed of by the common order.

2. The petitioner is seeking direction to the respondents to grant the benefits of two advance increments w.e.f June 1999 and refix the pay of the petitioner and post retiral benefits alongwith the arrears with interest on account of obtaining D.Ed diploma during the course of employment after



seeking due permission from the department.

3. For the sake of convenience, the facts are noted from W.P No.19697/2022(Jagdish Chandra Chawda vs. the State of M.P and Ors.)

4. The facts of the case are that the petitioner was initially appointed on the post of Deputy Teacher by an order dated 31.12.1986 on the consolidated monthly salary of Rs. 300/- per month and after completion of 2 years of service he was appointed and posted as Assistant Teacher in the then regular pay scale of Rs. 975-1650/- + admissible dearness allowance w.e.f. 9.1.1987, by an order dated 2.3.1988. The petitioner sought permission from the department for pursuing D.Ed. Diploma course which was accorded to him by order dated 3.12.1997, vide Sr. No. 27, and accordingly, the petitioner completed his 2 years D.Ed. Diploma course during the course of his employment, on his own cost, vide copies of his D.Ed. Marksheets. The petitioner submits that when he entered into services under Respondent No.1 Department, the Circular dated 21.9.1974 issued by Respondent No. 1 Department was in force, according to which if any person acquires B.Ed./BTI Degree (Training) at his/her expenses before entry into Government service or during Government service, he/she is entitled to two advance increments in running time scale of pay. The petitioner further submits that the aforesaid Circular dated 21.9.1974 remained in force and on the basis of aforesaid Circular only, the Apex Court in the case of *Smt. Asha Saxena v.State of M.P. & Ors. [CA No. 3408/2008, decided on 7.5.2008]* allowed a similar claim made by one of the Lecturers of Respondent No.1 Department holding him entitled to get two advance



increments on account of his obtaining D.Ed.Diplomate prior to his entry into service. Even a Division Bench of this Court in the case of *State of M.P. & Anr. v. Smt. Neeta Verma [WA No. 89/2009, decide on 12.8.2011]* has affirmed and acknowledged a similar claim made by one of the similarly situated teacher serving the Respondent No.1 Department. Not only this, even the Principal Seat of this Court in the case of *Taranjeet Kaur Chakrel vs. State of M.P. & ors. (W.P No.7537/2011(S))* , vide order dated 9.5.2011 has allowed a similar writ petition claiming benefit of two advance increments on account of obtaining B.Ed. Degree. The aforesaid order passed by the Single Judge in the case of Smt.Taranjeet Kaur Chakrel (Supra) stood also affirmed by the Division Bench of this Court, Principal Seat at Jabalpur in WA No.1220/2011, decided on 20.12.2014. Thus, the petitioner being similarly situated, was also entitled to be granted similar relief. Moreover, in terms of the law laid down by the Division Bench of this Hon'ble Court in the case of *State of M.P. v. Smt. Nisharani Agrawal and Ors.* reported in *2005(II) MPJR SN 18*, the petitioner is entitled to get relief prayed for by him in this Writ Petition. The petitioner submits that even in terms of Circular dated 24.12.1998 issued by Respondent No. 1 following the judgment rendered by the Apex Court in the case *State of M.P & Ors. vs. Badrinarayan Acharya & Ors.* reported in *1996 (10) SCC 271* at his own expenses after 22.10. 1964 and during his service was entitled to be granted two advance increments from the date of his initial appointment, claiming which, he has filed W.P.(S)No.1043/2004 before this Court which was disposed of by order dated 23.11.2004 directing the Respondent to consider



and decide the claim of the petitioner.

5. The respondents have filed the reply and denied the claim of the petitioner. It is argued that the State Government had made amendment by notification in Madhya Pradesh Adhayapak Avam Karmachariyon ke Bharti Avam Paddonatti Niyam, 1973 on 16/6/1993 whereby the holding of teachers training i.e B.ed/B.T.I had been made compulsory. It is argued that there was provision of grant of two advance increments on account of acquiring B.Ed/B.T.I at own expenses while in service. At the relevant time, the circular dated 21/9/1974 was in force and after the amendment on 16/6/1993 whereby acquiring of teachers training had been made essential the said circular ceases to have effect. It is further stated in the reply that the Secretary, Department of School Education, Bhopal had occasion to consider the similar issue in W.P No.7537/2011 decided on 19/5/2011 and after considering the case of the employee as directed by this Court, the order dated 15/6/2018, Annexure R-1 was issued and as per sub clause 2 of clause 3 of the said circular, such teachers who were appointed prior to 16/6/1993 and who had done B.Ed/B.T.C/D.Ed prior to 23/10/1964 on their own request would be entitled for two advance increments from the date of passing of the examination. It is argued that though the petitioner was appointed prior to 16/6/1993 but had done B.Ed in the year 1999 after the cut-off date and, therefore, the petitioner is not entitled for two advance increments on account of acquiring teachers training.

6. After hearing learned counsel for the parties, the question that arises for consideration is that whether the petitioner who had joined services in the



year 1986 and was granted permission by the department for pursuing D.Ed diploma course on 3/12/1997 would be entitled for two advance increment for acquiring D.Ed/B.T.I degree as per the circular prevailing on the said date or would be governed by the M.P Teachers Recruitment Promotion Rules (Non Collegiate Education) 1973 amended by the gazette notification dated 16/6/1993 prescribing qualification of B.Ed/D.Ed as an "essential qualification" for appointment on the post of teachers ?

7. To appreciate the aforesaid question, it is relevant to mention here that the respondent No.1 had issued a circular dated 21/9/1974 prescribing that if any person acquires B.Ed/B.T.I degree(training) on his/her expenses before entering into Government service or during Government service he/she would be entitled for two advance increments in running time scale of pay. The issue regarding entitlement of two advance increments after acquiring B.Ed degree travelled to the Supreme Court in the case of **Asha Saxena (supra)** which was decided by the Supreme Court on 7/5/2008. The Supreme Court considering the circular dated 21/9/1974 held that an employee is entitled to get two advance increments on account of his obtaining D.Ed diploma prior to his entering into service. A similar view was taken by the Division Bench of this Court in the case of **Smt. Neeta Verma (supra)** decided on 12/8/2011 and held that a teacher who had obtained B.Ed degree prior to entering into service is also entitled for grant of two advance increments. Considering the said judgment, writ petition filed by Taranjeet Kaur Chakel (***W.P No.7537/2011(Taranjeet Kaur Chakrel vs. State of M.P and Ors.)***) was allowed by order dated 9/5/2011. The said order passed by the



single Judge was affirmed by the Division Bench by dismissing W.A No.1220/2011 filed by the State on 20/12/2014. Another Division Bench of this Court in the case of *Smt. Nisharani Agrawal (supra)* held that teachers prior to entry in service possessing B.Ed examination at their own expenses are entitled to revive two advance increments in the light of circular of 1974 unless the same is not superseded. The Division Bench further held that teachers passed B.Ed examination after entering into services at their own expenses are also entitled for two advance increments. The State Government issued another circular dated 24/12/1998 following the judgement passed by the Apex Court in the case of *Badrinarayan Acharya (supra)* wherein it was held that the employees having obtained D.Ed diploma at his own expenses after 10/2/1964 and during his services were entitled for two advance increments from the date of initial appointment.

8. Admittedly, the petitioner had joined the services prior to 16/6/1993 and the department had granted him permission for diploma course in the year 1997. His services would not be governed by the recruitment Rules amended on 16/6/1993. The aforesaid amended Rules by which the qualification of B.Ed/D.Ed was made essential qualification would apply to fresh appointments made after coming into force of the Rules and would not apply to the teachers who were appointed prior to the amendment in the Rules. Further Annexure,R-1 dated 15/6/2018 which is an order passed by the State Government would not supersede the circulars of the State Government dated 21/9/1974 and circular dated 24/12/1998. The circular dated 24/12/1998, Annexure P-9 was issued in the light of the judgment



passed in the case of *Badrinarayan Acharya (supra)* arising from the State of M.P itself and was dealing with a case of appointment after the amendment in the recruitment Rules.

9. In view of the aforesaid discussion and enunciation of law, it is held that the case of the petitioner for grant of two advance increments on obtaining B.Ed/D.Ed diploma would be governed by the circular dated 21/9/1974 and also circular dated 24/12/1998 and not by the amended recruitment rules of 16/6/1993 and Annexure R-1 dated 15/6/2018. The petitioner was appointed in year 1987 and he was granted permission by department for pursuing D.Ed diploma course in 1997. Hence, it is held that the petitioners would be entitled for two advance increments on account of obtaining D.Ed diploma from June 1999 and the respondents are directed to refix the pay of the petitioner and post retiral benefits and also directed to release the arrears with 6% interest from the date it became due till the same is paid. The aforesaid exercise shall be carried out within 60 days from the date of communication of the copy of the order passed today and if such exercise is not carried out within the said period, the arrears shall carry 9% interest instead of 6% interest.

10. Accordingly, both the petitions are allowed and disposed of.

No order as to cost.

(VIJAY KUMAR SHUKLA)  
JUDGE