

(2017) 01 P&H CK 0169
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 691 of 2017

Administrator, Union Territory, Chandigarh	APPELLANT
Vs	
Sanjeev Kumar	RESPONDENT

Date of Decision : 19-01-2017

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16, Article 226

Citation : (2017) 1 SCT 715

Hon'ble Judges : Surya Kant and Sudip Ahluwalia, JJ.

Bench : Division Bench

Advocate : S.S. Pathania, Advocate, for the Respondent No. 1-Caveator; Vikas Chatrath, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Surya Kant, J. - Chandigarh Administration has laid challenge to the order dated 01.09.2016 passed by the Central Administrative Tribunal, Chandigarh Bench, the operative part whereof reads as follows:-

"..... In view of the discussion above, the impugned order (proceedings of SCEC) dated 18.03.2015 is quashed and the applicant is held entitled to financial up gradation of Senior Scale w.e.f. 20.7.2006 and Selection Grade w.e.f. 20.7.2011. The pay of the applicant may be revised accordingly and the arrears accrued to him released with interest @6% p.a. from the date of accrual to the date of actual release of the amount due to the applicant. This exercise may be completed within six weeks from the date of receipt of a certified copy of this order by the respondents. The claim of the applicant for PB- 4 scale shall be considered by the respondents after conclusion of the inquiry proceedings that are pending against the applicant....."

(emphasis by us)

2. The above-stated order has been passed in the Original Application filed by first respondent who is working as Assistant Professor in Sculpture, Government

College of Arts, Sector-10, Chandigarh.

3. The 1st respondent is on caveat, hence learned counsel for the parties have been heard at length and record perused.

4. It is undeniable that AICTE has notified the Career Advancement Scheme for teachers of Degree Level Technical Institutions. Para No.1.1.3 of the Scheme provides that there shall be a Selection Committee for Career Advancement Scheme which shall be the same as those for Direct Recruitment for each category. The said Selection Committee is required to consider a Lecturer for grant of Senior Scale and Selection Grade, as the case may be. Para No.1.2.0 deals with the grant of Senior Scale to a Lecturer whereas Para No.1.3.0 of the Scheme lays down the procedure for the grant of Selection Grade.

5. Para Nos. 1.2.0 and 1.3.0 (relevant extracts) read as follows:-

"1.2.0 Lecturer (Senior Scale)

A Lecturer will be eligible for placement in a senior scale through a procedure of selection, if she/he has:

(i) Completed 6 years of service after regular appointment with relaxation of one year and two years, respectively, for those with M.Phil, M.E./M. Tech. and Ph.D.

(ii) Participated in summer/winter schools of total duration of 4 weeks, or engaged in other appropriate continuing education programmes of comparable quality as may be specified or approved by the All India Council for Technical Education (AICTE).

(iii) Consistently satisfactory performance appraisal reports.

1.3.0 Lecturer (Selection Grade)

Lecturers in the Senior Scale who do not have a Ph.D. degree or equivalent published work, and who do not meet the scholarship and research standards, but fulfils the other criteria given below for the post of Assistant Professor and have a good record in teaching and, preferably, have contributed in various ways such as to the corporate life of the institution, examination work, or through Research & extension activities, will be placed in the Selection Grade, subject to the recommendations of the Selection Committee which is the same as for promotion to the post of Assistant Professor....."

(emphasis applied)

6. The Screening-cum-Evaluation-cum-Selection Committee constituted to consider the claims of Assistant Professors, Scheme, considered in its meeting held on 18.03.2015 the 1st respondent's claim for grant of Senior Scale and Selection Grade but unfortunately rejected the same on the basis of adverse material, most of which had been already set-aside by the Tribunal in separate judicial proceedings.

7. There can indeed be no doubt that the adverse material which is deemed to have become non-existent in the eyes of law, could not have been taken into account to deny the benefits for which the claim of 1st respondent was considered. Adverse reports etc. which stood set-aside by the Tribunal in an earlier round of litigation, were a totally foreign material for the purpose of objective consideration of the 1st respondent's entitlement. In this view of the matter, the Tribunal's direction to the extent of quashing the proceedings of Selection Committee dated 18.03.2015 is without any exception and deserves to be upheld ordered accordingly.

8. The Tribunal nevertheless ought not have assumed the role of Selection Committee under the Career Advancement Scheme and issue a positive direction to grant financial up gradation of Senior Scale or Selection Grade to 1st respondent w.e.f. 20.07.2006 and 20.07.2011, respectively. Such a decision making exercise should have been relegated to the "Selection Committee" after excluding, over-looking and ignoring the non-existing adverse material. In other words, the decision whether the 1st respondent is entitled to grant of Senior Scale or Selection Grade has to be firstly taken by the Selection Committee, of course on the basis of only the relevant material on record. No extraneous or alien factor should influence the decision making process. The order of the Tribunal to the limited extent thus exceeds the jurisdiction and has to be modified.

9. The writ petition is thus allowed in part and is disposed of with a direction to the Selection Committee under the Career Advancement Scheme to convene its meeting within one month and re-consider the claim of 1st respondent for the grant of Senior Scale and Selection Grade from the due dates, strictly in accordance with the criteria laid down in the Scheme and by ignoring the adverse report/material which has been already set-aside by the Tribunal. If the first respondent is found suitable, the Competent Authority is directed to grant him Senior Scale and Selection Grade with effect from the due dates along with simple interest @ 6%per annum.

10. Similarly, the Selection Committee shall further consider the claim of 1st respondent for the grant of Pay Band-4 strictly in accordance with Rules.

11. In view of the above directions the contempt proceedings initiated by 1st respondent shall be deemed to have been disposed of as infructuous.