

(2014) 08 P&H CK 0080
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5208 of 2014

Ajay Kumar Goyal and Others

APPELLANT

Vs

Central Administrative Tribunal, Chandigarh and Others

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2015) 177 PLR 536

Hon'ble Judges : Surya Kant, J;Jaspal Singh, J

Bench : Division Bench

Advocate : Aakash Singla, Advocates for the Appellant

Judgement

Surya Kant, J.—The petitioners impugn the order dated 03.01.2014 (Annexure P-16) passed by the Central Administrative Tribunal, Chandigarh Bench, rejecting their claim of parity in the grant of pay-scale and dearness allowance with Punjab Government Employees and in upholding the speaking order passed by their Appointing Authority, namely, the President, Indian Red Cross Society, District Branch, Bathinda, which was challenged in the Original Application. The precise case of the petitioners is that the Indian Red Cross Society, Bathinda Branch has formulated Service Rules and as per the Note appended with Appendix-A thereof, its employees are entitled to the Dearness Allowance and other allowances "admissible to Government servants on Punjab Government rates". Similarly, they rely upon Rule 12 of its Rules, which says that "in respect of pay, leave and other matters not expressly provided in this Rules, the employees of the Society shall be covered by the Punjab Civil Services Rules....."

2. The above-mentioned claim was raised by the petitioners after their retirement from service. The President of the Indian Red Cross Society has rejected the same on the grounds extracted below:-

".....Service record of the aforesaid petitioners available in the office was perused. On perusal of record, it was found that Sh. Ajay Kumar Goyal was

appointed as Clerk in Red Cross Society, Bathinda on 30.04.1974 and was promoted as Accountant on 6.10.1975 and thereafter, he was appointed as Accounts Officer on 8.7.1985. Similarly, on perusal of service record of other petitioners (22) it is found that their appointments were not in accordance with rules of Punjab Government but they were appointed at different posts in different pay scales as per requirement of time by Red Cross Society, Bathinda. These appointments were not made as per Punjab Government Rules. For Ex: before filling up any vacancy, public notice is issued and vacancy is filled up by selection. Similarly, these employees were also not promoted as per the promotion rules of Punjab Government like promotion of eligible and highest meritorious candidate by making a panel of three senior employees. Apart from this, the age and educational qualification determined by Punjab Government for the posts on which these employees are working, were also not considered at the time of appointment/promotion. For Ex.: Minimum qualification required by Punjab Government for the post of Accounts Officer is SAS Pass where the present Account Officer of the Society Sh. Ajay Kumar Goyal is only B.Com. pass. Similarly, Sh. Naresh Kumar and Smt. Darshana Rani both senior clerks were appointed as Clerks in Red Cross Society/Hospital Welfare Branch, Bathinda at the age less than 18 years whereas, Punjab Government has determined minimum age of 18 years for appointment. Similarly, these employees have not passed the type test declared compulsory by Punjab Government for clerical staff, at the time of their appointment in Red Cross. It is also worth considering here that service book of any employee of Red Cross Society and Mahant Gurbanta Dass School for Deaf and Dumb Children, Bathinda is not maintained and other service record such as ACRs are also not completely maintained as per Punjab Government Rules....."

(emphasis applied)

3. The petitioners unsuccessfully challenged the above-stated order before the Tribunal who has held that the Indian Red Cross Society, Bathinda Branch is run on donation and the petitioners' claim for enhancement of dearness allowance has rightly been rejected on account of financial constraints. The Tribunal referred to some decisions to observe that principle of "equal pay for equal work" cannot be pressed into aid by the petitioners.

4. When this writ petition came up for hearing on 20.03.2014, this Court passed the following order:-

"The claim of the petitioners for parity in the matter of pay-scales with that of Punjab Government employees remained unsuccessful before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh. The appeal before the Tribunal was against the order passed by the Deputy Commissioner on 31.08.2010.

It has been found by the learned President of the Indian Red Cross Society that the petitioners were not appointed as per Punjab Government Rules; no public

notice was issued before vacancy was filled up; the employees were not promoted as per Promotion Rules of the Punjab Government; age and educational qualifications were also not considered at the time of appointment and promotion. The said facts alongwith the decision of the Punjab Government not to apply the recommendation of the 5th Pay Commission in its entirety to the employees of the Board and Corporations were the reasons for the President of the Red Cross Society to decline parity with that of Punjab Government employees....."

5. With reference to the above reproduced order, it is not in dispute that the petitioners neither possess the qualification(s) prescribed by the Punjab Government nor were they appointed by way of a method consistent with Articles 14 & 16 of the Constitution. Similarly, the petitioners never qualified any promotional test nor Accountancy Examination. It was a simple case of back door entries. Some of them were appointed even at the age which was less than the minimum age prescribed for entering into Government service. These circumstances are sufficient enough to carve out an exception to the general principle of parity. The Rules relied upon by the petitioners can be applied only if recruitment is made in accordance with those very rules. No case to interfere with the impugned order is made out. Dismissed.