

(2010) 11 SHI CK 0039
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 7148 of 2008

Anil Sharma and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 26-11-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 11 SHI CK 0039

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The Petitioners are low paid Class-III and Class-IV employees working in the HP Council for Child Welfare of which Respondent No. 2 is the Chairman and Respondents No. 1 and 3 are the funding agency/department. The original application (OA) was filed by the Petitioners in the erstwhile HP State Administrative Tribunal (since abolished) on 6.7.2000 which on abolition of the said Tribunal has been transferred to this Court and registered as CWP (T) 7148 of 2008.

2. The petition was filed on the following prayers vide para 7 (i) & (ii):

i) To direct the Respondents to grant the revised payscales w.e.f. 1.1.1996 with arrears upto date as allowed by the H.P. Govt. to its employees in the same categories;

ii) To grant such other relief which may arise out of revision of pay scales w.e.f. 1.1.96 in accordance with amendments made by the H.P. Govt. from time to time.

3. In reply, the following stand has been taken on behalf of Respondents No. 1 and 3:

6. (b) Admitted to the extent that Grant-in-aid is being released to the HPCCW for implementing welfare schemes by the State Government. In so far as the

question of granting revised pay scale to the employees of H.P. Council for Child Welfare is concerned, the same are to be released by the concerned organization as the State Government has no administrative control over the said institution.

4. Respondents No. 2 and 4 have averred as under vide para 2 of the reply:

2. That the contents of paras 6 are admitted to the extent of sub paras a + b. It is humbly submitted that Respondent Council is a Voluntary Organization which in its entirety depends upon grant-in-aid received from Central and State Govt. and Indian Council for Child Welfare, New Delhi for running its various Schemes floated from time to time under Central Govt. Scheme or State Govt. Schemes or Scheme under Indian Council for Child Welfare, New Delhi. It is further submitted that the Applicants are working under a Scheme which is State Sponsored and for which 100% grant for running the said Scheme is provided by State Govt. this being so the financial resources at the disposal of the Respondent/Council are extremely meagre and are just enough to run a day to day business of the said Scheme which includes the pay-being paid to the Applicant. In response to para 6 (d), it is submitted that the State Govt. has already sanctioned pay-scales in 1981 vide letter No. 5-1/76-Bell-II dt. 18.3.81 and HP. CCW-461-91 dt. 4.7.81 for same categories of employees. As per Annexure-R-1. Further pay-scales were also revised on 1.01.86 and were offered to the employees of Respondent Council as per letter No. Fin-IF(C) 4-2/88 dt. 13.6.89 with the condition that the purposed revised pay-scale be adopted after approval of the competent Authority. As per annexed as Annexure R-2. The State Govt. also allowed to Council to revise pay-scale of its employees and the same shall be applicable as and when the State Govt. will sanction the said revised pay-scale where after the Applicant and other employees will also be entitled for the same and will get the same. Hence it is submitted that the Council has already taken up the matter regarding revised pay-scales of 1.01.96 with the State Govt. and in this reference the Respondent Council was informed by the Director, Social and Women's Welfare vide letter No. 5-31/98-Bel-Senk-II dt. 6.6.2000 that the matter in question shall be decided at the Government level which has not been so far. Annexed as Annexure-R-3. The contents of para 6(f+g) are admitted.

5. On a bare perusal as also on a combined and harmonious reading of the above stands taken on behalf of the Respondents No. 1 and 3 on the one hand and Respondents No. 2 and 4 on the other, it is apparently a case of an endeavour to shift responsibility to each other. However, in this regard it shall be relevant to make a reference to copy of letter dated 10.3.1981 Annexure R-1 to the reply on behalf of Respondents 2 and 4 which is to the following effect:

Copy of letter No. Kalyan-G(Q)-21/80 dated 10.3.1981 received from Govt. of HP. Sub:

Release of Revised pay-scale to the employees of HP. State Council for Child Welfare.

I am directed to refer to this Department letter even No. dated 19.2.1981 and to

say that the following revised pay-scales will be payable to the employees of the HP. State Council for Child Welfare:

Child Welfare Organiser Rs. 800-1400 Accounts Assistant Rs. 570-1080 }
Designation will be Accountant or Assistant. Clerk Rs. 300-430

No. 5-1/76-Bel-II Dated-Shimla-2,18-3-1981

Copy to General Secretary, Indian Council for Child welfare, Shimla-2 for information and necessary action.

Sd/- Director Welfare Department Himachal Pradesh.

6. Thus it is manifest from the above letter Annexure R-1 that even as per Respondent No. 3 there was a decision of the government to grant revised pay scales to the employees of the HP State Council for Child Welfare. It is also apparent from Annexures R-I, R-2, R-3, R-4 and R-5 that the matter with regard to grant of revised pay scales was considered even in the meeting of Indian Council for Child Welfare, Himachal Pradesh headed by the Governor, Himachal Pradesh and Respondents No. 3 and 4 with Respondent No. 1 from time to time. These documents/ communications further go to show that decision to implement the pay scales had in fact been taken and revised pay scales due and admissible on and w.e.f. 1.1.1986 were in fact made applicable, but the subsequent revision of pay scales w.e.f. 1.1.96 has been deferred for the reasons best known to Respondents No. 1 and 3.

7. Admittedly the State Government is paying revised pay scales to its employees as per revision of pay scales from time to time, the last being w.e.f. 1.1.2006. It is also not in dispute that revised pay scales applicable w.e.f. 1.1.1996 and 1.1.2006 have also been made applicable to the employees of almost all the Statutory Corporations and Commissions in the State. It being so only a minuscule number of employees of a few Councils such as HP Council for Child Welfare cannot be discriminated against in the matter of grant of pay scales in utter disregard and violation of Articles 14 and 16 of the Constitution.

8. In view of the above, the petition is allowed with a direction to Respondent No. 1 to consider the case of the Petitioners and other similarly situated employees of the HP Council for Child Welfare for Grant of revised pay scales applicable from 1.1.1996 and 1.1.2006 within six months from today. Needless to say that consequential benefits, if any, shall ensue the Govt. decision in the light of this judgment.