
(2014) 08 RAJ CK 0030
In the Rajasthan High Court
Case No : Civil Writ Petition No. 15985/2010

Anupma Rajoriya

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-08-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 39(d) — University Grants Commission Act, 1956 - Section 12(b), 2(f)

Citation : (2014) 08 RAJ CK 0030

Hon'ble Judges : Mohammad Rafiq, J.

Bench : Single Bench

Advocate : Bhupendra Pareek, OIC and Party-in-person, for the Respondent

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by the petitioner contending that she was initially appointed on the post of Lecturer (English) in Government Sanskrit College, Talabgaon, Dausa vide order dated 17.08.1995 by providing pay scale of Rs. 2200-4000. Later on she was transferred to Government S.S. College, Mahapura, Jaipur. It is contended that on 02.06.2000, the petitioner was conferred Ph.D. in English subject by the University of Rajasthan. A letter was issued in February, 1995 under Secretary, University Grants Commission, New Delhi to the Registrar, Rajasthan University, Jaipur that name of the Government Shastri Sanskrit College, Mahapura has been included in the list prepared under Section 2(f) of the University Grants Commission Act, 1956 and, therefore, college is eligible to receive the central assistance in terms of the rules framed under Section 12(b) of the UGC Act, 1956. It is contended that despite inclusion of the name of the college in the list prepared under Section 2(f) of the UGC Act, 1956 lecturers working under Government Shastri Sanskrit College were treated by different yardsticks as would be evident from the fact that benefit of pay scale provided as per the UGC norms were denied to them in arbitrary, capricious and discriminatory manner without there being any

justification. The pay fixation of the petitioner was carried out under the Revised Pay Scale Rules of 1998 fixing petitioner's pay as on 01.01.1996 to the stage of Rs. 3256. It is contended that as per the norms prescribed by the University Grants Commission, Government Sanskrit Colleges being included in the list prepared under Section 2(f), lecturers working thereunder are entitled to same perks and pay as are being provided to the lecturers working under general colleges of the Government of Rajasthan. It is an astonishing fact that although lecturers working under Sanskrit Colleges are shouldering same responsibilities yet they have been denied equal treatment in the matter of pay scale which is contrary to the provisions enshrined under Articles 14, 16 and 39(d) of the Constitution of India. In an identical situation, this Court vide decision dated 22.02.1991 passed in S.B. Civil Writ Petition No. 444/1998, Kalicharan Bhattacharya v. State of Rajasthan & Others held that lecturers of Sanskrit Colleges are at par with lecturers working under general colleges of the Government, therefore, they be provided equal pay for equal work. The aforesaid view was further reiterated in the case of Dr. Rajendra Prasad Mishra v. State of Rajasthan & Others which has been upheld up to the Hon'ble Supreme Court. Thus, there is no valid reason to deny the salary to the lecturers working under Sanskrit Colleges at par with their other counterparts working under the general colleges. It is, therefore, prayed that the respondents be directed to provide pay scale in accordance with the UGC norms at par with lecturers under the Government Colleges and thereby carry out pay fixation accordingly. It is further prayed that the respondents be further directed to grant senior scale with two advance grade increments on completion of four years of service having possessed Ph.D. and other consequential benefits to the petitioner along with arrears and interest @ 12% per annum from the date petitioner acquired the eligibility for the same.

2. The respondents have opposed the writ petition by filing reply and contended that UGC pay scales are not applicable for the lecturers working in the colleges under the Sanskrit Education Department as the selection and appointments on the post of Lecturers in Sanskrit College under the Sanskrit Education Department are being made under the provisions of Rajasthan Sanskrit Education Subordinate Service Rules, 1978. It is further contended that since the UGC pay scales are not applicable to the lectures working under the Sanskrit Education Department, the senior scale and selection scale under the Career Advancement Scheme is also not applicable. However, the lecturers under the Sanskrit Education Department are entitled for ACP on completion of ten years of service. In compliance of the decision of this Court in the case of Kalicharan Bhattacharya(supra), the lecturers working under the Sanskrit Education Department have been allowed starting pay scale of Rs. 8000-30500 equivalent to the starting pay of lecturers working under the general education department. Senior scale and selection scale is applicable to the lecturers working under the General Education Department are not allowed to the Lecturers working under the Sanskrit Education Department because the scheme of CAS is only applicable

on those institutions where the UGC pay scales are provided. It is contended that the Hon"ble Apex Court has settled the law in the matters of equal pay for equal work and recently in the case of State of Madhya Pradesh v. Ramesh Chand Bajpai has held that doctrine of equal pay for equal work can be invoked when the employees are similarly situated. Similarity in the designation or nature, quantum of work cannot be a ground for equality in the matter of pay scale. The court has to consider the factors like the source and mode of recruitment and appointment, qualification, the nature of work, value thereof, responsibility, reliability, experience, confidentiality, functional need etc. Therefore, the view taken by this Court in the case of Kalicharan Bhattacharya(supra) is no more applicable in the present case. In this regard, reliance has also been placed upon the decisions of the Hon"ble Supreme Court delivered in the cases of State of Madhya Pradesh v. Ramesh Kumar, 2009 Vol. XIII, SCC page 635 and the State of Haryana v. Charanjeet Vol. X, SCC Page 225. While relying upon the decision of the Hon"ble Supreme Court in the case of Haryana State Electricity Board and Another Vs. Gulshan Lal and Others, , it has been contended by the respondents that if implementation of earlier judgment give rise to anomalous results and there are wide spread undesirable cascading effects in as much as other employees claim similar relief which otherwise not entitled to in law does not prevent the State from challenging the subsequent order in a similar controversy. It is, therefore, prayed by the respondents that there is no merit in this writ petition and the same be dismissed as such.

3. I have heard the petitioner as well as representative of the respondents and perused the material placed before me.

4. The Co-ordinate Bench of this Court in the case of Jitendra Kumar Agarwal v. Government of Rajasthan & Another (S.B. Civil Writ Petition No. 1468/2000 and six other connected writ petitions) decide on 03.12.2010 dealt with similar controversy which is involved in this writ petition. The Co-ordinate Bench while relying upon the decision of this Court in the case of Kalicharan Bhattacharya(supra) also observed that at a later stage, when the matter was decided by this Court, the State Government preferred special appeal and also went to the Apex Court and the SLP was dismissed and the relief was confined only to those who approached the Court and all those judgments had been noticed and referred to by the Co-ordinate Bench of this Court at Principal Seat at Jodhpur in S.B. Civil Writ Petition No. 8418/2010(Dr. Prashant Panwar and Others v. State of Rajasthan & Others. In both the aforesaid cases, the petitioners therein were held entitled for same pay and allowances as were being paid to the lecturers of other general colleges. The decision of Co-ordinate Bench of this Court at Principal Seat at Jodhpur was upheld by the Division Bench vide its judgments dated 25.07.2011 delivered in the case of State of Rajasthan & Others v. Dr. Prashant Panwar(D.B. Civil Special Appeal(Writ) No. 848/2011).

5. In view of above, the present writ petition is allowed. The respondents are directed to grant same benefits as were granted in the case of Dr. Prashant

Panwar(supra) to the petitioner. Compliance of this order be made by the respondents within a period of one month from the date copy of this order is produced before them.