
(1997) 08 P&H CK 0108

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16451 of 1996

Ashok Kumar Sharma

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 07-08-1997

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1997) 117 PLR 281

Hon'ble Judges : T.H.B. Chalapathi, J;R.S. Mongia, J

Bench : Division Bench

Advocate : R.C. Chatrath and Alka Chatrath, for the Appellant; K.S. Ahluwalia, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—The petitioner was appointed as a Science Master on 9.6.1978 and his services were regularised with effect from 1.10.1980. He acquired Post-Graduate Degree in M.A. on 5.8.1978. In this writ petition, he is seeking issuance of a writ of mandamus directing the respondents to grant him two advance increments on acquiring Post Graduate qualification in view of the memo of the Government of Punjab Education Deptt. dated 1st September, 1960 as clarified in the letter dated September 20, 1979.

2. The claim of the petitioner was opposed by the respondents on the ground that the services of the petitioner was regularised in the year 1980 and therefore according to the clarification issued in February, 1979, the petitioner is not entitled to the increments as he acquired the higher qualification prior to his regularisation.

3. The short point for consideration in this writ petition is whether the ad hoc employees, who have already got higher qualification and whose services as such are followed by regular service on regularisation, are entitled to the benefit of advance increments with effect from the date of appointment on ad hoc basis or

if such regular employees acquired those qualifications while on ad hoc service are entitled to the advance increments with effect from the dates of acquiring higher qualification. It has been held by the Division Bench of this Court in *Rajinder Kumari v. State of Punjab* 1968(4) S.L.R. 297) as follows :-

"In the foregoing circumstances, therefore, we are of the view that the benefit of circular Annexure P-2 shall be available to the petitioners even though they were in ad hoc employment provided the ad hoc employment with effect from May 16, 1977 continued until the petitioner was appointed on regular basis, which fact has not been disputed, the petitioner is held to be entitled to be brought in Group 2, Category B and has also to be paid higher scale applicable to that category. Since it is stated that even on the date she was appointed originally on ad hoc basis on May 16, 1977. She possessed the requisite qualification, the petitioner shall be placed in Group II Category-B, with effect from that date and paid salary on that basis as revised from time to time. In the result, the petition is allowed. However, there will be no order as to costs."

4. A question which is identical as in the present case came to be considered before the learned Single Judge of this Court in *Baldev Raj Sharma and Anr. v. State of Punjab and Ors.* (1991(2) R.S.J. 172), wherein it was held as follows :-

"The sole question that arises for consideration is as to whether or not the petitioners can be denied the benefit of advance increments only on account of the fact that their services had been regularised after February, 1979. It has been categorically averred in the petition that the petitioners were working as masters on ad hoc basis prior to February, 1979. They were being paid salary in the same scale of pay as those appointed on regular basis. They were discharging the same duties. They were in no way different from the other members of the cadre. In this situation, there appear to be no justification whatsoever in treating the petitioners differently from the other members of the cadre. The action of the Director of Public Instruction (Schools) in imposing the condition of regular service vide orders of February 4, 1987 cannot be sustained. The purpose of the rule or instruction providing for the grant of advance increments is to compensate the teachers and other members of the service for their higher qualifications. For achieving this purpose, all persons discharging identical duties are entitled to parity of treatment. They cannot be treated differently on account of the fact that their services were regularised before or after February, 1979. The condition imposed on them has no rational relationship with the object of compensation the teachers possessing higher qualifications. The condition, in my view, is violative of Article 14 and cannot be sustained."

5. In view of the above judgments of this Court, we are of the opinion that the petitioner is entitled to two advance increments from the date of his acquiring the higher qualification.

6. Accordingly, the writ petition is allowed with a direction to the respondents to re-fix the salary of the petitioner by granting two advance increments from the

date of his acquiring the higher qualifications, but the arrears of salary so determined are restricted to 3 years and two months prior to the date of filing of the writ petition i.e. 14.10.1996. There will be no order as to costs.