

(2010) 11 SHI CK 0080
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 1997 of 2008

Basu Dev Sharma

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0080

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

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—Shorn of details the controversy raised by the Petitioner in this petition is with regard to withdrawal of the higher pay scale of 1500-2640/- granted to him in pursuance of Notification dated 12th December, 1989, Annexure A-9 and later on withdrawn vide Notification dated 4th December, 1991 Annexure A-10.

2. The factual background giving rise to the dispute is that the Petitioner joined the employment of the Respondents, particularly Respondent No. 3, as Proof Reader in the pay scale of Rs. 450-700/-. The appointment letter is Annexure A-6, dated 12th January, 1989. Later on, the pay scale of Proof Reader was revised from Rs. 450-700 to Rs. 1025-1800/-vide notification dated 26th April, 1989, Annexure A-7.

3. It appears that on a reference dated 11th May, 1989, Annexure A-29, made by Respondent No. 3 to the Financial Commissioner-cum-Secretary (Language and Culture) to the Government of Himachal Pradesh, text whereof is as under, the pay scale of the post of Proof Reader was enhanced to Rs. 1500-2640/-vide the aforesaid Notification dated 12th December, 1989, Annexure A-9. However, strangely enough later on it was withdrawn and brought to the earlier level of Rs. 1025-1800/-vide Notification dated 04.12.1991, Annexure A-10, without specifying any reason in support thereof:

Department of Language & Culture Himachal Pradesh, Shimla - 171 001.

No. Bhasni - 131/89-Estt. 7244.

To

The Finance-Commissioner-cum-Secy (Language & Culture) to the Govt. of Himachal Pradesh Shimla - 171 002.

Sub: Anomaly in Punjab Revised Pay Scales.

Sir,

The representation of Shri Basu Dev Sharma Proof Reader "Vipasha" Magazine in connection with the anomalies on the basis of Punjab Revised Pay scales is enclosed herewith along with its enclosures for your kind consideration.

In fact departmental magazines, "Vipasha" and "Fikrofan" are high standard literary magazines of the State and are renowned for their standard in Hindi and Urdu language. The Proof Reading work of these magazines is altogether different from the general proof reading work of Printing and Stationery department. The proof readers of these magazines must have sound background of language and literature. It can be attained only when their academic qualification and pay scales are also comparatively better.

At present the pay scales of the Proof Readers of this department is Rs. 450-700 which has been revised to Rs. 1025-1800 w.e.f. 1.1.86. Their academic qualifications are Matric, 60% marks in Hindi along with Prabhakar. Whereas the academic qualification of the Proof Readers of Printing & Stationery department is only metric and they are in the pay scale of Rs. 450-700 which has been revised to Rs. 1200-2100 w.e.f. 8.2.1989.

The department, in accordance with the Proof Readers of language Department Punjab, wants to give the revised pay scale of Rs. 1500-2640/- to its Proof Readers and wants to fix their academic qualifications as B.A. At present the post of Proof reader of "Vipash" has been filled-up and the qualifications of the persons manning the post are Shastri and Acharya. The post of Proof Readers of Fikrofan is vacant.

It is, requested that the Proof Readers of this department may please be given the revised pay scale of Rs. 1500-2640 equivalent to the pay scale given to the Proof Readers of Punjab Language Department.

Yours faithfully, Sd/ (C.R.B. Lalit)

4. On the above averments, the petition has been filed on the following prayers:

7(i) The impugned notification dated 4.12.1991 (Annexure A-10) and office order dated 18.12.1991 may be quashed and set aside;

(ii) That only consequent action taken/proposed by the Respondents may also be

quashed and set aside;

(iii) That the Respondents may be directed to revise the pay scales of the applicant to these 1800-3200/- on the analogy of Punjab Pattern in view of notification dated 7.3.1991 (Annexure A-15).

5. In reply, the following stand has been taken on behalf of the Respondents vide relevant portion of Para 3:

Later it came to the notice of the F.D. That the post of Proof Reader in Punjab Language Dept. was in the pre-revised scale of Rs. 680-1120 and that Govt. had also revised the pay scale of the post to Rs. 1500-2640. Further going into the matter, it came to the notice of the F.D. That the minimum required educational qualification in R&P Rules of Language Deptt. Punjab was much higher (Annexure-R-III) than that of education qualifications in the R&P Rules of H.P. Language, Art & Culture Deptt. (Annexure-R-IV). Besides higher educational qualifications, the post of Proof Reader in Punjab being in Higher pre-revised scale of Rs. 680-1120, on reconsideration of the matter, Finance Department vide notification dated 4-12-1991 (Annexure-R-V) withdrawn the notification dt. 12-12-1989 and allowed the same revised pay scale of Rs. 1025-1800 to the post of Proof reader of the Language, Art & Culture Deptt. as was notified vide notification dt. 26-4-1989 (Annexure-R-I). Thus the notification dated 12-12-1989 was withdrawn on the basis of actual facts and merit of the case and not arbitrarily.

6. Though as already stated, the higher pay scale of Rs. 1500-2640/- was withdrawn vide Notification dated 04.12.1991, Annexure A-10, without assigning any reason, yet as stated in the reply, it was on account of two fold reasons, firstly that the pay scale admissible to the post of Proof Reader in Himachal Pradesh was earlier also lower than that payable to their counterparts in the State of Punjab and secondly, the educational qualifications for the said post in the State of Punjab are also higher. To be explicit, the unrevised and revised pay scales of the post of Proof Reader in Punjab and Himachal are given in the table below:

Punjab Himachal

Unrevised Revised Unrevised Revised

Rs. 570-1980 Rs. 1500-2640 Rs. 450-700 Rs. 1025-1800

7. A comparative table of the qualifications for the post of Proof Readers in the states of Punjab and Himachal, as per Notification dated 23rd January, 1965, Annexure A-13 and Notification Annexure A-14, respectively, are as under:

Punjab Himachal

(a) B.A. With Hindi or Sanskrit as elective subject and Hons. In any other language or B.S.c. Or B.A. With Hons. In Hindi or Sanskrit.

(b) Same experience of Proof Reading in some Government Department or

recognised institution;

(c) M.A. In Hindi or Sanskrit preferred. Essential: 1. Should have passed Matriculation or its equivalent from a recognised University/ Board with Hindi/ Urdu as an elective subject with 60% marks; and 2. Must have passed Prabhakar or Adil Fazil from a recognised University/ Board. Desirable qualifications: 1. Three years experience of Proof Reading in Govt./ private reputed printing press. 2. Knowledge of customs, manners and dialects of Himachal Pradesh and suitability for appointment in the peculiar conditions prevailing in the Pradesh.

8. Undisputably, both the unrevised pay scales as also qualifications for the post of Proof Reader in the State of Punjab were higher as compared to those prevalent in the state of Himachal. However, the fact remains that it is apparent from a combined and harmonious reading of the educational qualifications required for the post in the two states that incumbent Proof Reader in the State of Himachal Pradesh was required to have passed matriculation examination with 60% marks with Hindi/Urdu as an elective subject. The additional educational qualification provided for the job is that of Parbhakar or Adil Fazil. Apart from it, three years" experience of proof reading in government/private reputed printing press was also provided as desirable qualification.

9. The educational qualifications of the Petitioner are reflected from testimonials Annexure A-1 (Shastri), A-2 (Parbhakar), A-3 (Acharya) and A-4 (Shiksha Shastri). As per Notification dated 31.08.1982, Annexure A-5 Shastri, Acharya and Shiksha Shastri are equivalent to B.A. M.A. And B. Ed., respectively.

10. It is manifest from the reference dated 11th May, 1989, Annexure A-29, made by Respondent No. 3, Director (Arts Language and Culture), Himachal Pradesh to the Financial Commissioner-cum-Secretary (Language and Culture) to the Government of Himachal Pradesh, which has been reproduced hereinabove in extenso that at the relevant time there were only two posts of Proof Reader in the Respondent-department and the Petitioner was looking after Hindi magazine "Vipasha" and the other post meant for Urdu magazine "Fikrofan" was vacant. It appears that the pay scale was enhanced to Rs. 1500-2640 by Respondent No. 3 by taking a conscious decision pursuant to representation dated 07.05.1989, Annexure A-30 wherein the Petitioner had highlighted every aspect of the matter including the comparative educational qualifications provided for the post in both the states and enclosing therewith copies of the recruitment and promotion rules applicable in both the states and consequent upon the recommendation made by Respondent No. 3 by way of the aforesaid reference dated 07.05.1989, Annexure A-30, by taking a conscious decision. It being so, now the Respondents cannot wriggle out of their own decision simply for the reason that it is a matter of common knowledge that the decision making process in the Government is not a child's play and before taking any such decision the matter is routed through various procedural channels/hierarchies beginning from lowest to the highest level.

11. In view of the above, the petition is allowed. Consequently, whereas Notification dated 4th December, 1991, Annexure A-10 is quashed, Notification dated 26th April, 1989, A-7, insofar as the same relates to the post of Proof Reader is restored with all the consequential benefits.

12. In view of the above, the petition stands disposed of, so also the pending CMP(s), if any.