

(2010) 10 SHI CK 0103
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 6146 of 2008

Bimla Sharma

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 28-10-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 10 SHI CK 0103

Hon'ble Judges : Kurian Joseph, C.J;V.K. Sharma, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The petition has been filed with the following prayers:

(A) That the scale of Rs. 1640-2925 was given to the applicant in accordance with the notification dated 16.9.94 and the memo dated 23.3.94 which was rightly issued by the Respondents. The judgment of the Tribunal has to be implemented in a fair and rational manner and cannot be restrict to the Petitioners before the Tribunal or those who entered service before 31.10.1966. The applicant is entitled to the benefits of the judgment which were given to her vide notification dated 16.9.94 and these benefits cannot now be withdrawn in the manner adopted by the Respondents.

(B) That the interpretation being given to the judgment is absolutely unconstitutional and cannot stand the test of law. The Respondent department cannot have two sets of Assistant Librarians with two different pay scales. The fact remains that Assistant Librarians all over the State perform identical duties and possess similar educational qualifications. The order passed by the Tribunal cannot be given such interpretation and if the Respondent department is allowed to do so it will result in treating equals as unequals which was not the object of the proceedings initiated before the Tribunal nor such intention can be gathered from the order passed in D.R. Chauhan v. State of H.P. In view of this, memo dated 14.9.99 is illegal and deserves to be quashed and set aside.

(C) That the applicant was given the scale of Rs. 1640-2925 w.e.f 15.7.1986. This scale was given to Assistant Librarians all over the State and they were also given arrears of salary. Unfortunately, such arrears were not released in case of the applicant and the payments have been delayed and ultimately denied for one or the other reason. The applicant has been given a discriminatory treatment in the matter of payment of arrears of salary and the action is liable to be quashed on the sole ground of its being violative of mandate enshrined in Articles 14 & 16 of the Constitution of India.

2. It is seen from the reply that similar issue was raised in OA No. 3502 of 1999, titled Harsh Chaba v. State. In case the Petitioner is similarly situate and his case is covered by the said decision, similar treatment herein shall also be given. Needful be done within a period of three months from the date of production of copy of this judgment.

3. With these observations the writ petition is disposed of so also the pending application(s), if any.