

(1989) 07 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Amended Civil Writ Petition No. 10456 of 1988

Chander Bhan Arora and Others

APPELLANT

Vs

Vice-Chancellor Panjab University

RESPONDENT

Date of Decision : 25-07-1989

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227, 37

Citation : (1990) 2 ILR (P&H) 260

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : G.L. Sadana, for the Appellant; P.S. Goraya, for Respondent No. 1, D.S. Nehra Charu Tuli, for Respondent No. 2, Ashok Bhan Rakesh Garg, for Respondent No. 3, Harphul Singh Brar and P.S. Teji, for the Respondent

Final Decision : Allowed

Judgement

A.L. Bahri, J.—In this writ petition filed under Articles 226 and 227 of the Constitution of India, the Petitioners working as Research

Fellows in the Panjab University and in the P.G.I., Chandigarh pray for a writ of mandamus directing the Respondents to pay them revised rates

of! Research Fellows with effect from April 1, 1987 as recommended by the Central Government.

2. The Petitioners were appointed as Research Scholars in the University after approval of the Vice-Chancellor and in the P.G.I., after due

selection. Appointment letters of some of the Petitioners are Annexures P.I/1-3. They were being paid Rs. 800 Rs. 1,000 per mensem by the

Panjab University and the P.G.I., respectively. The Petitioners are doing the research work under the projects of the Department of Science and

Technology, Union Territory, Chandigarh and the budget for Union Territory,

Chandigarh is provided by the Government of India in respect of these projects also. Other projects are sponsored and funded through other research and development agencies such as U.G.C., C.S.I.R., I.C.M.R., I.C.A.R., D.O.E. and Department of Science and Technology, Central Government, itself. The rates of scholarship were fixed long time ago. They were revised per Annexures P.2, P.3 and P.4 issued by the Government of India, Ministry of Science and Technology. These

emoluments were revised as under:

1. Junior Research Fellows Rs. 1800
2. Senior Research Fellows Rs. 2100
3. For special projects, higher grades were also provided. It was also decided by the Central Government, as is apparent from Annexure P.2 that

the Government had decided that 50 per cent of the additional expenditure due to the revision of emoluments was to be absorbed within the

sanctioned grant of the Ministry/Department of the Government of India sponsoring the research and development funding schemes and the

balance would be considered by the Ministry of Finance keeping in view the total budgetary position of each Ministry. These guidelines were also

to be used as such by C.S.I.R., U.G.C. etc. To the same effect, the Government's decision was reported in the newspapers, extract thereof being

Annexures P.5 and P.6. On behalf of the Research Scholars, representations were sent to the Government of India, copy of the same being

Annexure P.7 and legal notice, copy being Annexure P.8. No action having been taken the Petitioners approached this Court for the relief. On

behalf of the P.G.I., the stand taken is that the appointments were made in accordance with the policies and guidelines laid down by the Science

and Technology Council, Union Territory, Chandigarh. Only fixed salary was admissible to "the staff appointed on such projects which was within

the budgetary provisions received by them from the Department of Finance and Planning, Union Territory, Chandigarh. The Petitioners were

working on such projects sponsored by Science and Technology Department of Union Territory; Chandigarh. They were not employees of the

P.G.I. They were employees of the concerned Investigators. Salary was being paid to the Petitioners as the funds were made available to the

Investigators by the Department of Science and Technology Council, Union

Territory, Chandigarh, the funding body. It was also urged that such a dispute could be referred to the arbitrator. The Union Territory Administration, Respondent No. 3, filed a separate written statement inter alia alleging that the selection of Research Fellows was being made by the respective institutions sponsoring research projects. It was admitted that the Petitioners were doing the research work on the projects duly approved by the Science and Technology Council of the Union Territory, Chandigarh. It was denied that the Government of India was allocating budget in respect of these projects. The said Council in the meeting held on February 2 1989 revised the emoluments of Research Fellows at Rs. 1500 per mensem with effect from February 1, 1989 describing them as Research Scholars. The revised guidelines issued by the Ministry of Science and Technology (Annexures P.2 to P.4) were not binding on the Administration. The same were not adopted by the Administration. Those were applicable to the projects sponsored by the said Ministry or research and development agencies which received grant-in-aid direct from the Government of India for this purpose. Annexure "A" attached with the written statement gives the constitution of the council. Annexure "B" is copy of the letter of Secretary, Finance and Planning, Union Territory, Chandigarh to the Council for revising the rates of Research Fellows. Annexure "C" relates to the minutes of the meeting of the Sub-Committee of the Council proposing Rs. 1,200 per month as the emoluments. On behalf of the Pan jab University, Chandigarh, an affidavit was filed which is dated February 22, 1989 stating that the Panjab University would pay to the Petitioners at the revised rates from such dates as may be fixed by respective sponsors i.e. Department of Science and Technology, Union Territory, Chandigarh. The University was bound by the terms and conditions attached to each research scheme or project.

4. Since from the guidelines issued by the Ministry of Science and Technology, Government of India, an impression was gathered that such projects were being sponsored and funded by the Government of India Union of India was made a party. After service of notice, Mr. Harphool Singh Brar, Standing Counsel of the Union of India, has put in appearance. Though no written statement has been filed, he has stated that the projects in dispute in which the Petitioners have been deployed are not funded by

the Central Government. However, Union Territories/States could adopt the same.

5. Learned Counsel for the Petitioners has argued that action of the Respondents in paying less remuneration to the Petitioners as compared to remuneration payable to other Research Fellows also working in the University as well as in the P.G.I, doing similar work amounts to discrimination without there being reasonable classification. It also amounts to exploitation of the Petitioners whose present remuneration is less than minimum salary of a peon working in the Government. It has further been argued that under the guidelines issued by the Ministry of Science and Technology, Government of India the Respondents could claim reimbursement which position is strongly disputed on behalf of the Respondents.

6. While dealing with the principle of equal pay for equal work; in the case of casual workers, the Supreme Court made observations which are general and applicable to all such like cases. In *Daily Rated Casual Labour Employed under Post and Telegraph Deptt. v. Union of India and Ors.*

1988 (1) S.L.R. 211. the Supreme Court observed as under:

We are of the view that such denial amounts to exploitation of labour. The Government cannot take advantage of its dominant position, and compel any worker to work even as a casual labourer on starving wages. It may be that the casual labourer has agreed to work on such low wages. That he has done because he has no other choice. It is poverty that has driven him to that state. The Government should be a model employer.

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India is a socialist republic. It implies the existence of certain important obligations which the State has to discharge. The right to work, the right to free choice of employment, the right to just and favourable conditions of work, the right to protection against unemployment, the right of every one who works to just and favourable remuneration ensuring a decent living for himself and for family, the right of every one without discrimination of any kind to equal pay for equal work, the right to rest, leisure, reasonable limitation on working hours and periodic holidays with pay, the right to

form trade unions and the right to join trade unions of one's choice and the right to security of work are some of the rights which have to be

ensured by appropriate legislative and executive measures. It is true that all these rights cannot be extended simultaneously. But they do indicate the

socialist goal.

In *Y.K. Mehta and Ors. v. Union of India and Anr.* 1988 (4) S.L.R. 290, the Supreme Court observed as under:

When two posts under two different wings of the same Ministry are not only identical, but also involve the performance of the same nature of

duties, it will be unreasonable and unjust to discriminate between the two in the matter of pay. One of the directive principles of State Policy, as

embodied in Clause (d) of Article 39 of the Constitution, is equal pay for equal work for both men and women. The provision of Article 39(d) has

been relied upon by the Petitioners. The Directive Principles contained in Part-IV of the Constitution, though not enforceable by any Court, are

intended to be implemented by the State of its own accord so as to promote the welfare of the people. Indeed, Article 37 provides, inter alia, that

it shall be the duty of the State to apply these principles in making laws. Even leaving out of our consideration Article 39(d), the principle of "equal

pay for equal work", if not given effect to in the case of one set of Government servants holding same or similar posts, possessing same

qualifications and doing the same kind of work, as another set of Government servants, if would be discriminatory and violative of Articles 14 and

16 of the Constitution.

The aforesaid observations of the Supreme Court can only be applied to the case in hand. The Petitioners, after doing their post graduation and

after following regular procedure of selection, succeeded in being appointed as Research Fellows. They are the future scientists of the country. It is

not disputed that in other projects, Research Fellows in the University as well as in the P.G.I., are being paid higher remuneration as those projects

are being funded by Ministry of Science and Technology, Government of India, or the allied agencies under the guidelines as already referred to

above. The same nature of work is being done by the Petitioners who are also working as Research Fellows though in the projects sponsored by

the Department of Science and Technology, Union Territory, Chandigarh. No

doubt, this department of the Union Territory, Chandigarh, cannot be considered a part of such department of the Government of India or the allied agency but the fact cannot be lost sight of that the guidelines issued by the Ministry of Science and Technology on the subject are to be applied throughout India in all the projects of research and development. Copies of such guidelines have already been issued to all concerned. Looking at the case broadly and taking into consideration the ratio of the decisions of the Supreme Court referred to above, there is no other option but to hold that great discrimination is being done to the present Petitioners in the matter of payment of remuneration for doing the job. Their counterparts on other projects in the University as well as in the P.G.I, are being paid higher remuneration. This clearly violates provisions of Article 16 of the Constitution. The denial of higher remuneration on the part of Union Territory, Chandigarh on the rigid technicality that such remuneration is fixed independently of the guidelines keeping in view the resources of the Union Territory is not acceptable. The Government should be a model employer as has been observed by the Supreme Court in the cases noted above. It would not be difficult for the administration to earmark requisite funds for such an important task of research to be paid to the Research Scholars as remuneration to wipe out discrimination. It goes without saying that discrimination in the matter of pay etc. among equals causes great frustration which may ultimately affect the expected results. It is left to be decided between the Chandigarh Administration and the Ministry of Science and Technology, Government of India, as to who is to completely finance such projects or to reimburse the Chandigarh Administration under the guidelines referred to above. However, at the root level, Chandigarh Administration cannot be allowed to create discrimination in the matter.

7. For the reasons recorded above, allowing this writ petition, a mandamus is issued to the Respondents to pay to the Petitioners. Research

Fellows working in the University as well as in the P.G.I, same remuneration as is being paid to other Research Fellows in other projects funded by

Ministry of Science and Technology, Government of India under its guidelines with effect from April 1, 1987. The arrears of remuneration would

also be paid to the Petitioners with interest at the rate of 12 per cent per annum.

There will be no order as to costs.