
(1999) 09 P&H CK 0153

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14504 of 1991

Daya Lal Sharma

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 20-09-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 124 PLR 72

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : V.K. Vashisth, for the Appellant; C.R. Dhiya, D.A.G., for the Respondent

Judgement

R.L. Anand, J.—Shri Daya Lal Sharma, Ex. Head Teacher, Government Primary School, Kila Farm, has filed the present Civil Writ Petition under Article 226/227 of the Constitution of India against the State of Haryana and Director, Primary Education, Haryana, for the issuance of a writ in the nature of mandamus directing the respondents to release the whole benefits to the petitioner, attached with the Teacher's State Award for the year 1987-88.

2. The case pleaded by the petitioner is that 5th of September of every year, which falls on the eve of the birthday of Dr. Radhakrishnan Sarvpalli, is celebrated as Teacher's Day. The State of Haryana also celebrated Teacher's Day and on this auspicious occasion, the State of Haryana announced the awards to the teachers of meritorious service to their credit. The names of the teachers having meritorious record were considered by the Government of Haryana for the year 1987-88 and the name of the petitioner also came on the merit list and his name was recommended for the Teacher's State Award for the year 1987-88. A letter dated 22.3.1990 was written from the Director of Secondary Education, Haryana, Chandigarh to the petitioner in this regard. The name of the petitioner was also included in the booklet of Teachers State Award. According to the petitioner, the teachers, who were awarded this award, were entitled to get a

cash amount of Rs. 2,500/- one bronze medal, two annual increments for five years, two years extension in service and one shawl. The case of the petitioner fell in the year 1987-88. However, due to the negligence of the department, petitioner was given the said award on 20.4.1990 along with Rs. 25,000/- instead of 5.9.1980. Consequently, the petitioner had to retire on 31.10.1988 after attaining the age of 58 years. Had the State Award been given to the petitioner well in time the petitioner would have got two years extension in service. The petitioner made a representation to the appropriate authority which was considered sympathetically and his case was recommended for giving extension in service for two years. However, inspite of the recommendations the case was delayed for three months and, therefore, the petitioner was given extension on 16.7.1990 and was appointed as Head Teacher in a Government Primary School, Kila Farm. The petitioner joined the service as such on 17.7.1990. However, statutory benefit of two increments was also denied to the petitioner and he was also denied the payment of monthly salary for the remaining period. Not only this, even the Head Teacher allowance amounting to Rs. 50/- per month and counted as personal pay was also withdrawn.

3. The petitioner made several representations requesting therein that the remaining period running from 1.11.1988 to 16.7.1990 be considered as on duty and this period should be regularised and in case there was any difficulty with the department then the petitioner should have been given further extension of two years in order to complete 2 years from 17.7.1990. This representation did not find favour with the department and the petitioner was made to retire on 30.10.1990 i.e. at the age of 60 years. The petitioner alleged that the respondents are under legal and moral obligation to honour the commitment and with this prayer the petitioner has prayed for the relief mentioned in the earlier part of this judgment.

4. Notice of the writ petition was given to the respondents, who filed the reply and denied the allegations. The stand of the State is as follows:-

"The petitioner was given State Award vide certificate dated 20.4.1990 for meritorious service rendered by him during the year 1987- 88. The petitioner was retired from Government service w.e.f. 31.10.1988 after completing 58 years of service and was again taken in service on 17.7.1990 due to award of teachers certificate and he worked till 31.7.1990. He did not remain in service from 1.11.1988 to 16.7.1990 and as such he did not work during this period so he is not entitled to any service benefit for the said period. That grant of extension is upto 60 years and the petitioner has completed the age of 60 years on 31.10.1990 so he was retired".

5. In support of his case, the petitioner has placed some documents and it will be useful for me to make a reference to Annexure P-3, according to which, there are certain incentives which are given to the recipients of the State Teacher's Award, such as, amount of Rs. 2,500/-, one bronze medal, one certificate, two increments for five years and two years extension in service and one shawl.

6. I have heard Shri V.K. Vashisth, Advocate for the petitioner and Shri C.R. Dahiya, D.A.G., Haryana, for the respondents and with their assistance have gone through the record of this case.

7. It is the common case of the parties that the petitioner's name was recommended for the award announced by the State of Haryana for the year 1987-88. It is also the common case of the parties that a teacher, whose name is recommended to receive State Teacher's Award, is entitled to receive cash amount, one bronze medal, certificate and shawl, besides two annual increments for five years and two years extension in service. This award was announced on 5.9.1988. At that time, the petitioner was very much in service. With the announcement of this award, the petitioner had become eligible to remain in service upto 31.10.1990. For some procedural delay, if the petitioner could not remain in service beyond 31.10.1988, the fault lies with the Department and not with the petitioner. As per the Scheme of the award, a teacher was entitled to pecuniary benefits for a period of two years but he could not remain in service beyond 60 years of age. The petitioner was not allowed to continue in service beyond 31.10.1988 and he was allowed to work only with effect from 17.7.1990. In these circumstances, the petitioner would always be entitled to receive all the benefits which he would have been otherwise entitled starting from 1.11.1988 up to 16.7.1990. This is with regard to the salary of the petitioner but with regard to the annual grade increment, the petitioner cannot stretch his relief beyond the age of 60 years because in that eventuality the petitioner would have been allowed to continue in service beyond 60 years which is not permissible. Therefore, the petitioner can only take the benefit of two annual increments not only for five years but up to the age of 60 years. If the petitioner has earned any increments between 1.11.1988 to 31.10.1990, of course, the petitioner shall be entitled to those increments only.

8. In this view of the matter, the writ petition is partly allowed and it is hereby declared that petitioner will be entitled to the benefit of service in the matter of pay and incidental allowance etc. starting from 1.11.1988 up to 16.7.1990. Besides that, he shall be entitled to the benefit of two annual grade increments provided those two annual increments fell due in the service of the petitioner up to 31.10.1990. The directions are further given to the respondents to calculate the monetary benefits of the petitioner and to release the same within three months from the receipt of the copy of the order.