
(2023) 06 SHI CK 0043
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 5208 Of 2020

Dr. Joginder Singh & Others	Vs	APPELLANT
Registrar, Himachal Pradesh University & Others		RESPONDENT

Date of Decision : 20-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 323A
Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 06 SHI CK 0043

Hon'ble Judges : Tarlok Singh Chauhan, J; Satyen Vaidya, J

Bench : Division Bench

Advocate : Sumeet Raj Sharma, Neel Kamal Sharma, Anand Sharma, Karan Sharma, L. S. Mehta, Neeraj Sharma, Mamta Bhatwan

Final Decision : Dismissed

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioners have prayed for following substantive reliefs:-

"That the Annexure A-5, 7, 8, 17, 18, 19, 22, 23, 24, 26, 33 and 36 whereby the University Administration has granted UGC pay scale and status at par with regularly appointed teachers may kindly be quashed and also the allotment of house made to respondents No. 5 to 15 which are reserved for teachers may kindly be ordered to be withdrawn."

2. The petition was initially instituted as Original Application under Section 19 of Administrative Tribunals Act 1985 before Himachal Pradesh State Administrative Tribunal (for short, "the Tribunal") and was registered as O.A. No. 5443 of 2018. On abolition of the Tribunal, it came to be transferred to this Court and has been registered as CWPOA No. 5208 of 2020. The averments made in the "Original Application" remained without any amendment before this Court also. Similar situation remained in respect of relief(s) prayed therein.

3. Admittedly, petitioners have not sought any relief for themselves. Their grievance remained confined to conferment of status of teachers and grant of UGC pay scales to respondents No. 5 to 15. The petitioners have not even made any averment regarding violation of any of their right(s).

4. At the very outset, we asked learned counsel for the petitioners to justify the maintainability of the petition in absence of prayer for any specific relief for themselves or in absence of any plea regarding infringement or violation of any of their rights individually or collectively.

5. We have heard the learned counsel for the parties on the question of maintainability of the petition as we purposed to decide said issue in the first instance. We have also gone through the material on record.

6. As is evident from the averments made in the petition, petitioners have simply projected that the appointments of respondents No. 5 to 15 were not in terms of the Ordinance, Act and Statute of Himachal Pradesh University (for short, "the University") and UGC norms, hence, the conferment of status of teachers and grant of UGC pay scale to them was illegal. It will be relevant to cull out, the facts as emerge from the contents of the petition, as under:-

a) Petitioners were working as Assistant Professors in various departments of the University on the date of filing of the petition.

b) Institute of Integrated Himalayan Studies (for short 'IIHS') was formed w.e.f. 1.4.2002 as a Research Centre with the aid of UGC initially for five years.

c) Executive Committee of IIHS approved its rules and regulations vide Resolution No.43 dated 13.3.2004. The posts of Research Associate, Senior Research Fellow, Junior Research Fellow and Field Assistant/Laboratory Attendant were created. Six posts each of Research Scholars and Project Associates besides three posts of Project Fellows were filled by IIHS.

d) In 2008 to 2010, three more posts of Research Officers were filled.

e) On 16.11.2009, the posts in IIHS were re-designated as Senior Research Officers, Research Officers and Project Officers. Respondents No. 5 to 15 were occupying the re-designated posts. They were also given the scales at par with Assistant and Associate Professors, working in other departments of the University.

f) Respondents No. 5 to 15 filed petitions for regularization of their services. This Court vide judgment dated 18.4.2012, in CWP(T) No. 634 of 2008 and other connected matters had issued directions to the University to consider the cases of petitioners for continuation of IIHS as a permanent Multi-Disciplinary Research Institution of the University and also the issue of continuance/absorption/regularization of the petitioners therein. It was further ordered that on final decision being taken by the University, the petitioners would be entitled to all consequential benefits

g) In 2013, the IIHS was made a Permanent Multi-Disciplinary Research Institution of the University.

h) On 9.9.2014, the services of respondents No. 5 to 15 were regularized as Senior Research Officers, Research Officers and Project Officers.

i) On 16.3.2015, revised pay scales as per UGC norms were allowed to respondents No. 5 to 15.

j) On 18.10.2016, notification was issued to treat the petitioners as teachers.

7. As noticed above, petitioners have alleged that the respondents No. 5 to 15 were not entitled to be granted the status of teachers and the UGC pay scales at par with petitioners only on the ground that their appointments were not in terms of Ordinance, Act and Statute of the University and UGC norms. The petitioners have not spelled out or alleged any injury or violation to their rights, therefore, the petitioners cannot be said to have any cause of action for filing the instant petition individually or collectively. Further, the absence of prayer for any relief for themselves in the petition itself suggests that the conferment of benefits on respondents 5 to 15 had not caused any prejudice to any of the rights of petitioners which they held as teachers in the University. The cause, thus, espoused in the instant petition can be said to have some semblance of Public Interest Litigation.

8. It is no more res-integra that the public interest litigation cannot be maintained in service matters. The very fact that petitioners had approached the Tribunal under Section 19 of the Administrative Tribunals Act shows that the subject matter of the Original Application necessarily was a service matter and the petitioners had no misconception whatsoever regarding this aspect.

9. In *Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others*, (1998) 7 SCC 273, a three Judges Bench of Hon'ble Supreme Court has held that "if public interest litigations at the instance of strangers are allowed to be entertained by the Tribunals, the very object of speedy disposal of service matter would get defeated". In para-21 of above noted judgment, the Hon'ble Supreme Court has held as under:-

"21. In the result, we answer the first question in the negative and hold that the Administrative Tribunal constituted under the Act cannot entertain a public interest litigation at the instance of a total stranger"

10. In *Ashok Kumar Pandey vs. State of West Bengal* (2004) 3 SCC 349, the Hon'ble Supreme Court observed as under:-

"16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have

been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.* (AIR 1999 SC 114), this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts."

11. In *Gajinder Sharma vs. State of H.P. & others* reported in 2010 (3) Shimla Law Cases 194, learned Single Judge of this Court has held as under:-

"22. In the present petition, the petitioner has not placed on record his personal credentials for espousing the cause of others. In the petition, he has made a reference that his right has been ignored by appointing respondents No.4 to 9 but surprisingly, he has not made any prayer for himself in the petition. The petition is admittedly a service matter. It was filed in the erstwhile Tribunal. The other prayers in the petition are incidental and those prayers do not change the nature of petition. It appears the petition has been filed for extraneous considerations and to gain publicity. In view of law laid down by the Supreme Court, noticed above, public interest litigation in service matter is not maintainable."

12. This Court while deciding CWPOA No. 6358 of 2020, titled *Surender Sharma vs. State of H.P. & others* has held as under:-

"25 In view of aforesaid discussions and for the reasons recorded above, in our considered view, the instant petition at the first place was not maintainable before the erstwhile Tribunal as it was in the nature of public interest litigation and secondly on the ground of limitation. Since considerable time has otherwise elapsed, we are not inclined to interfere with the appointment of respondent No.5. Mere fact that the petitioner has thereafter amended the petition and the same has been allowed cannot give him any advantage as it cannot cure the defect as pointed above. 26 The writ petition is dismissed, in the aforesaid terms, so also the pending application(s), if any, leaving the parties to bear their own costs"

13. In *Samriti Gupta & another vs. State of H.P. & others*, a Division Bench of this Court vide judgment dated 8.1.2016, reported in Latest HLJ2016 (HP) 191 has held as under:-

"11. Now, what emerges from the aforesaid exposition of law is that a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal and the necessary corollary which follows is that it is only "person aggrieved" within the meaning of the Act who can prefer an application for redressal of his grievances before the Tribunal constituted under Article 323-A of the Constitution of India. The Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts. Its jurisdiction and powers have been well defined in the Act and more importantly it does not enjoy any plenary power."

14. In the facts in hand also, the petitioners without having advocated any cause for themselves cannot be said to be persons aggrieved, rather they are strangers not intrinsically concerned with any service matter and hence were not entitled to approach the Tribunal. On abolition of the Tribunal, the petitioners chose to confine and restrict the scope of their challenge, as it was before the Tribunal.

15. Admittedly, the petitioners have not sought the writ of Quo-Warranto.

16. In result, we have no hesitation to hold that the petition filed by the petitioners is not maintainable being in nature of public interest litigation in service matter. The petition is accordingly dismissed. Pending applications, if any, also stand disposed of.