

(2013) 09 P&H CK 0075
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 7006 of 1992

Dr. S.L. Tank and Another

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 04-09-2013

Acts Referred:

Citation : (2013) 09 P&H CK 0075

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : Ranjit Saini, for the Appellant; Shruti Goyal, AAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Tewari, J.—The brief facts of the case are that on the recommendations of the University Grants Commission, the respondent-State decided to revise the pay scales of teachers working in the Universities and Colleges which was revised w.e.f. 1.1.1986. A circular in this context was issued on 8.3.1989. It was decided that a lecturer on his initial appointment shall be placed in the pay scale of Rs. 2200-4000; the pay scale of lecturer(Senior Scale) was Rs. 3000-5000 and that of lecturer (Selection Grade) was Rs. 3700-5700. A lecturer after completion of 8 years" service was entitled for senior scale of Rs. 3000-5000. He was further entitled for the selection grade of Rs. 3700-5700 on completion of 13 years regular service provided he fulfilled the requisite conditions laid down in the circular dated 8.3.189. Since the petitioners fulfilled the requisite conditions for the grant of Selection grade of 3700-5700, their cases were considered by the Screening Committee constituted by respondent No. 1 and having been found suitable the petitioners were placed in the aforesaid selection grade vide order dated 13.11.1989. Prior to 1.1.1986 petitioner No. 1 has been getting his annual increment w.e.f. 1st February of each year. Similarly the date of annual increment of petitioner No. 2 is 1st July of each year. The grievance of the petitioners is that after placing them in the selection grade of Rs. 3700-5700 as

on 1.1.1986, their date of annual increment has been altered and instead of granting the next annual increment to petitioner No. 1 as on 1.2.1986 and to petitioner No. 2 as on 1.7.1986, they have been granted the annual increment w.e.f. 1.1.1987. As a result thereof the petitioner No. 1 whose pay was entitled to be fixed at Rs. 3825/- as on 1.2.1986 has been fixed as such on 1.1.1987. The grievance of the petitioners is that they are entitled to retain their old date of annual increment as per Annexure VI of the circular Annexure P-1. The illustration, as given in the Annexure VI of Annexure P-1 further makes it clear that the date of increment as it was prior to placement in the revised pay scale, would remain in tact and some placement in the revised pay scale will not alter the same. Initially by following the pay fixation formula laid down in Annexure VI of Annexure P-1, petitioner No. 1 was actually granted his annual increment as on 1.2.1986 and his pay was accordingly fixed. On coming to know the fact that they have been deprived of the benefit of annual increment as per their old dates, they represented to respondent No. 2 through proper channel and the Principal of the College recommended their representations dated 20.4.1990 and 17.1.1990 respectively. Despite sending various reminders their representations have not been decided as yet. Hence this petition. In reply filed by respondents No. 1 and 2 the stand taken is that as per Government instructions (Annexure P-1) the earlier scale of pay of Rs. 700/1600 was revised to Rs. 2200/4000 and, therefore, the pay of the lecturers (including petitioners) in the scale of Rs. 700/1600 was to be fixed initially in the corresponding revised grade of Rs. 2200/4000 w.e.f. 1.1.86 and thereafter they were to be placed in the senior grade of Rs. 3000/5000 or selection grade of Rs. 3700/5700 w.e.f. 1.1.86 on fulfilling the conditions of Annexure P-1. It is averred that petitioner No. 1-S.L. Tank was drawing Rs. 1250/- in the old scale of Rs. 700/1600 and his pay was fixed in the revised grade of Rs. 2200/4000 at Rs. 3200/- with next date of increment on 1.2.86 i.e. original date of his increment. Subsequently he was placed in the selection grade of Rs. 3700/5700 w.e.f. 1.1.86. Since he was placed at the initial stage in the grade of Rs. 3700/5700, his next date of increment was admissible after completing one year of service at the stage of Rs. 3700/- in the grade of Rs. 3700/5700 on 1.1.87. It is further averred that in the same manner petitioner No. 2 Ram Vir's pay was fixed in the revised grade but with the date of increment as 1.7.86. As per the respondents Annexure VI does not support the contention of the petitioners as they were not in the pay scale of selection grade of Rs. 1200/1840 or 1200/1900 which was directly revised to Rs. 3700/5700. It is further the case of the respondents No. 1 and 2 that para 3 of Annexure VI does not support the contention of the petitioners because the illustrations given therein relate to grade to grade revision only and as such are not applicable in their case because the petitioners had to clear a screening process before they were determined fit to have been placed in the selection grade.

2. The illustrations as given in Annexure VI of Annexure P-1 are as follows:-

3. A perusal of the circular dated 8.3.1989 envisages the following conditions for the grant of selection grade to a Lecturer who is in the senior scale:-

12. Every lecturer in the Senior Scale working in the Universities will be eligible for promotion to the posts of Reader in the scale of pay of Rs. 3700-5700 if he/she has:-

- a) completed 8 years of service in the senior scale, provided that the requirement of 8 years will be relaxed if the total service of the lecturer after regular appointment is not less than 16 years,
- b) obtained a Ph.D., degree, or an equivalent publicised work,
- c) made same mark in the areas of scholarship and research as evidenced by self-assessment, reports of referees, quality of publications, contribution to educational renovation, design of new courses and curricula etc.;
- d) participated in two refresher courses/summer institutes each of approximately 4 weeks duration or engaged in other appropriate continuing education programme of comparable quality as may be specified by the UGC, after placement in the Senior Scale: and
- e) earned persistently good performance appraisal The Universities may take suitable action in this regard in accordance with the guidelines contained in para 15 of Government of India letter dated 22.7.88

13. Those Lecturers in the Senior Scale who do not have Ph.D. Degree or equivalent published work and who do not meet the scholarship and research standards of a Reader. But fulfil the other criteria mentioned in para 12, and have a good record in teaching and/or participation in extension activities, will be placed in the grade of Rs. 3700-5700 subject to the recommendations of the Committee mentioned in para 15 below. They will be designated as Lecturer in the Selection Grade. Posts in the Selection Grade will be created for this purpose by upgrading the posts held by them.

14. The issue regarding re-designation of Lecturers as Readers in Colleges will be taken up as and when the detailed guidelines regarding open selection are received on the subject.

4. It is the contention of learned AAG that the grant of Selection Grade is not a grade to grade revision and is akin to a proficiency step up. In this connection she had relied upon *Bharat Sanchar Nigam Ltd. Vs. R. Santhakumari Velusamy and Others*, wherein the Hon'ble Supreme Court held as follows:-

29. On a careful analysis of the principles relating to promotion and upgradation in the light of the aforesaid decisions, the following principles emerge:

(i) Promotion is an advancement in rank or grade or both and is a step towards advancement to a higher position, grade or honour and dignity. Though in the traditional sense promotion refers to advancement to a higher post, in its wider sense, promotion may include an advancement to a higher pay scale without moving to a different post.

But the mere fact that both-that is, advancement to a higher position and advancement to a higher pay scale-are described by the common term "promotion", does not mean that they are the same. The two types of promotion are distinct and have different connotations and consequences.

(ii) Upgradation merely confers a financial benefit by raising the scale of pay of the post without there being movement from a lower position to a higher position. In an upgradation, the candidate continues to hold the same post without any change in the duties and responsibilities but merely gets a higher pay scale.

(iii) Therefore, when there is an advancement to a higher pay scale without change of post, it may be referred to as upgradation or promotion to a higher pay scale. But there is still difference between the two. Where the advancement to a higher pay scale without change of post is available to everyone who satisfies the eligibility conditions, without undergoing any process of selection, it will be upgradation. But if the advancement process which has elements of selection, then it will be a promotion to a higher pay scale. In other words, upgradation by application of a process of selection, as contrasted from an upgradation simpliciter can be said to be a promotion in its wider sense, that is, advancement to a higher pay scale.

(iv) Generally, upgradation relates to and applies to all positions in a category, who have completed a minimum period of service. Upgradation can also be restricted to a percentage of posts in a cadre with reference to seniority (instead of being made available to all employees in the category) and it will still be an upgradation simpliciter. But if there is a process of selection or consideration of comparative merit or suitability for granting the upgradation or benefit of advancement to a higher pay scale, it will be a promotion. A mere screening to eliminate such employees whose service records may contain adverse entries or who might have suffered punishment, may not amount to a process of selection leading to promotion and the elimination may still be a part of the process of upgradation simpliciter. Where the upgradation involves a process of selection criteria similar to those applicable to promotion then it will, in effect, be a promotion, though termed as upgradation.

5. Developing further she has relied upon Note 12 (ii) of Rule 4.13 of The Punjab Civil Services Rules as applicable to Haryana which is reproduced here as under:-

Note 12.-Normally no pay higher than the substantive pay is admissible on an officiating appointment to a selection grade post which does not involve assumption of duties or responsibilities of greater importance except where such a post has been included in the schedule to rule 4.13 of Punjab Civil Services Rule, Volume I, Part II. It has now been decided in relaxation of the provisions of rule 4.13 *ibid*, that:-

(i)...

(ii) the pay of the employee in the Selection grade may be fixed at the stage next above his pay at the relevant stage of the time scale and the date of next increment would be on the completion of the normal period. The provisions of sub-rule (2) of rule 4.14 shall also be applicable in such cases.

6. In the circumstances it has to be held that the pay scale of Rs. 3700-5700 was not granted to the petitioners as a grade to grade revision but was granted to them on their individual merit after proper screening process(as has been admitted in the writ petition itself) and consequently in terms of Note 12(ii) of Rule 4.13 the next date of their increments had to be on the completion of the period of one year from the date when they were placed in the higher scale. Petition is dismissed.