

(2019) 12 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 5424 Of 2017

Dr. Subhash Chander And Another

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Citation : (2019) 12 P&H CK 0088

Hon'ble Judges : Sanjay Kumar, J

Bench : Single Bench

Advocate : Jagbir Malik, Santosh Malik, Rajesh Gaur, R.S. Tacoria

Final Decision : Allowed

Judgement

Sanjay Kumar, J

The petitioners are Coaches in Maharshi Dayanand University, Rohtak, the third respondent. The first petitioner is a Judo Coach while the second petitioner is a Wrestling Coach. They have been in the service of the University since October, 1995.

By way of this writ petition, they seek a direction to the State and the University to grant them Senior Scale (`10000-15200) with effect from 20.10.2001, upon completion of six years of service, and Selection Grade Scale (`12000-18300) with effect from 20.10.2006, upon completion of five years in the Senior Scale, with all consequential benefits, as per the Career Advancement Scheme prevalent at the relevant point of time. The petitioners cite the instance of Dr. Ravinder Singh Rana, an identically situated Boxing Coach in the University, who was extended such relief. They seek a consequential direction to the authorities to release the arrears of their revised pay with 18% interest per annum.

It is not in dispute that the University passed a Resolution on 21.07.2007 (Annexure P-3), through its Executive Council, approving the proposal to treat Coaches in the University on par with Teachers, as per the pattern followed by

Kurukshetra University, Kurukshetra. The same was subject to the approval by the Government of Haryana. It is an admitted fact that the Government approved this proposal. As per the Career Advancement Scheme (Annexure P-8) applicable to Teachers of the University, an incumbent was eligible for placement in the Senior Scale of Rs. 10000-15200 upon completion of six years of service after regular appointment. However, if the incumbent possessed Ph. D qualification, he was entitled to such placement after four years and if he possessed M. Phil qualification, after five years. Such placement was also subject to his participation in one refresher and one orientation course/summer institutes, each of approximately four weeks duration, or being engaged in other appropriate continuing education programmes of comparable quality, as specified or approved by the University Grants Commission. Similarly, a Senior Scale Teacher was eligible for placement in the Selection Grade of Rs. 12000-18300 upon completion of five years of service in the Senior Scale. This was again subject to his participation in at least two refresher courses/ summer institutes, each of approximately four weeks duration, or his engagement in other appropriate continuing education programmes of comparable quality as specified or approved by the University Grants Commission.

Admittedly, Dr. Ravinder Singh Rana, a Boxing Coach in the service of the University, was awarded the Senior Scale of Rs. 10000-15200 with effect from 27.07.1998, vide proceedings dated 29.11.2005 (Annexure P-6) of the Selection/ Screening Committee of the University. He was thereafter awarded the Selection Grade Scale of Rs. 12000-18300 with effect from 01.11.2002, vide proceedings dated 30.11.2005 (Annexure P-7) of the Selection/Screening Committee of the University.

These reliefs were granted to Dr. Ravinder Singh Rana pursuant to the order dated 02.11.1999 secured by him in CWP No. 5390 of 1996. LPA No. 401 of 2005 filed by the Government of Haryana against the aforesaid order dated 02.11.1999 was dismissed on 24.07.2000. While dismissing the said appeal, the Division Bench observed that it did not agree with the contention advanced on behalf of the State that the decision taken in relation to Kurukshetra University, Kurukshetra, could not be applied to Maharshi Dayanand University, Rohtak. The Division Bench observed that there could be no discrimination between two sets of employees in Universities under the jurisdiction of the same State and whatever the employees of Kurukshetra University were getting had to be extended to the employees of Maharshi Dayanand University, Rohtak.

This being the factual milieu, it may be noted that the petitioners earlier filed CWP No. 969 of 2003 before this Court wherein they filed CM No. 3763 of 2015 for sanctioning of proper pay scales to them and by order dated 12.04.2016, this Court noted that they were claiming parity with Dr. Ravinder Singh Rana and directed the authorities to grant them all such benefits within a time frame. However, it appears that though they were given other benefits, the authorities did not extend to them the benefit of fixation of their pay in the Senior Scale and

Selection Grade Scale, on par with Dr. Ravinder Singh Rana. This led to the filing of the present case.

In its written statement, the University, speaking through its Registrar, stated that the Government of Haryana was seized of the matter and that it had done the needful in terms of the order passed in CWP No.969 of 2003.

The Deputy Secretary to the Government, Higher Education Department, Government of Haryana, filed the written statement on behalf of the State authorities. Therein, he stated that the sanction of benefits to Dr. Ravinder Singh Rana had been implemented by the University on its own and without the approval of the Government, though it was mandatory. He however conceded that the appeal, in LPA No.401 of 2000, filed by the Government of Haryana against the order secured by Dr. Ravinder Singh Rana, in CWP No. 5390 of 1996, had been dismissed on merits and attained finality. He contended that the entitlement of the petitioners to the scales in question arose only after they obtained their Ph. D qualification in the year 2013 and therefore, they could not seek such benefit from a prior date. He further asserted that the petitioners did not have the requisite qualification as neither of them had undergone Refresher Courses or Orientation Courses in terms of the Career Advancement Scheme norms.

The petitioners filed their replication in response to the aforesaid written statement contending that the norms relied upon would not be applicable to Sports Coaches. They reiterated that Dr. Ravinder Singh Rana had been granted benefit in terms of the time stipulations in the Career Advancement Scheme though he also secured Ph. D qualification thereafter. They asserted that there was no condition that one must compulsorily attain such qualification to avail the benefit of the scales and prayed for relief.

Mr. Jagbir Malik, learned counsel for the petitioners, would assert that, time and again, the University recommended the case of the petitioners but despite the same, the State authorities still remain unmoved. Reference in this regard was made by the learned counsel to the proceedings of the University of August and October, 2016 (Annexure P-15).

Mr. Rajesh Gaur, learned Additional Advocate General, Haryana, would concede that the relief sought by the petitioners was extended to Dr. Ravinder Singh Rana, an identically situated Coach in the service of the University, after dismissal of the Government's appeal. He would however assert that the financial ramifications were not considered earlier and that grant of the scales in question to Coaches would be a burden upon the exchequer. This argument is patently specious. Once it is admitted by the Government that Coaches in Kurukshetra University were treated on par with Teachers and the Resolution to the same effect passed by Maharshi Dayanand University, Rohtak, as long back as in the year 2007, was not disapproved by the Government, the question of discriminating between identically situated Coaches does not arise. All the more

so, when Dr. Ravinder Singh Rana, a Coach in Maharshi Dayanand University, has already been granted this benefit. The other contentions of the State are equally untenable. The norms referred to supra clearly manifest that it is not compulsory for an incumbent to acquire Ph. D qualification as a condition precedent to secure either the Senior Scale or the Selection Grade Scale. The said qualification would only accelerate the eligibility to attain such scale and no more. In the case on hand, when the petitioners attained the eligibility to acquire the scales in question upon completing the requisite length of service, the fact that they thereafter acquired Ph. D qualification cannot be held against them. It is not as if they would be disentitled to claim such benefit if they had not acquired the qualification. The same therefore cannot be used against them and to their detriment. Similarly, the condition with regard to participation in Refresher/Orientation Courses, specified or approved by the University Grants Commission, cannot be applied to Sports Coaches. The aforesaid norms were promulgated in the context of teaching personnel, viz, Lecturers and Readers. It is only by virtue of the authorities resolving to treat Sports Coaches on par with Teachers that they attained eligibility to aspire for the scales, in terms by the aforesaid Career Advancement Scheme. Therefore, the norms which were tailor-made for teaching personnel cannot be blindly applied to this extended category of Sports Coaches. It is not the State's case that the University Grants Commission specified or approved any Refresher or Orientation Courses for Coaches and that the petitioners failed to participate therein, despite such prescription.

On the above analysis, this Court finds no justification whatsoever for the Government to deny Senior Scale pay and Selection Grade Scale pay to the petitioners after they put in the requisite length of service. It is not disputed that the petitioners' eligibility to claim Senior Scale crystallized in October 2001 and to claim Selection Grade Scale crystallized in October, 2006. That being so, the delay in the release of such pay scales to the petitioners is squarely attributable to the authorities concerned and the petitioners cannot be penalized therefor. As such benefit was unjustly refused to them all along, they would be entitled to interest on the arrears of such pay scales at 6% per annum.

The writ petition is accordingly allowed. The respondents are directed to extend to the petitioners Senior Scale with effect from 20.10.2001, upon their completion of six years in service, and Selection Grade Scale with effect from 20.10.2006, when they completed five years in the Senior Scale. The arrears in this regard shall be released to the petitioners along with interest thereon, as stated supra, expeditiously and in any event, not later than one month from the date of receipt of a certified copy of this order.

There shall be no order as to costs.