
(2014) 04 P&H CK 0055
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10236-CAT of 2001

Dr. Vishal and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Citation : (2014) 04 P&H CK 0055

Hon'ble Judges : Sanjay Kishan Kaul, C.J;Arun Palli, J

Bench : Division Bench

Advocate : V.K. Sharma, Advocate for the Appellant; Shekhar Verma, Advocate for Respondents No. 1 to 3, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Arun Palli, J.—In exercise of power under Rule 10 of the Delegation of Financial Powers Rules, 1958, the Chief Commissioner, Chandigarh was pleased to accord sanction to start a Diploma Course in Yoga, for the session 1976-77, at Yoga Health Centre, Chandigarh. Sanction was also accorded for creation of two posts of lecturers i.e. (i) Lecturer in Psychology/Philosophy; and (ii) Lecturer in Bio-Chemistry, in the scale of Rs. 300-600. A formal order in this regard was issued by the Finance Secretary, U.T., Chandigarh on 04.01.1977. An advertisement was made by the Department of Sports, Chandigarh Administration, vide which applications were solicited from the eligible candidates to fill up the aforesaid two posts. Likewise, another advertisement dated 18.07.1977 was issued for the purpose of making admission to Diploma Course in Yoga. The petitioners competed for selection against the said two posts and having been selected, petitioner No. 1 was appointed as a Lecturer in Psychology/Philosophy in Yoga & Health Organization, Sector 23, Chandigarh in the scale of Rs. 300-600, vide letter dated 04.11.1977. Similarly, petitioner No. 2 was also appointed as Lecturer in Bio-Chemistry in the scale of Rs. 300-600, vide letter dated 23.02.1977. Briefly, the case set out by the petitioners has been that they were appointed as Lecturers at Government Yoga & Health Organization, Chandigarh,

which is a part of Government College of Education, Sector 20, Chandigarh. They worked under the administrative control of Principal of the said College. The names and designation of the petitioners duly find mention in the list of the staff members given in the prospectus of the said College every year. Not just that, they were assigned duties of teaching theory and practical both to the students admitted every year by the Government College of Education, Chandigarh. They further claim that all rules and regulations regarding fees, admissions, examinations are similar in nature and character vis-à-vis B.Ed. and B.Ed. (Yoga) students. That being so, the petitioners made representations for affording them the pay scale of College Lecturer. As not granting the said scale had caused manifest injustice to the petitioners. The representations made by the petitioners were considered and rejected vide order dated 25.08.1988 (Annexure P-8). The reasons assigned in support of the rejection were that since the qualifications for appointment to the post of Lecturer in the State Yoga & Health Organization, U.T., Chandigarh are equal to those of school Lecturer and not the college Lecturer, the prayer for granting the pay scales of college cadre could not be accepted.

2. It was in the background of the afore-narrated facts, the petitioners approached the Central Administrative Tribunal (for short, "the Tribunal") vide O.A. No. 772/CH/1992 and prayed for the following reliefs:

- (i) The impugned orders Annexures A/1, A-1/A and A/8 be quashed;
- (ii) The respondents be directed to grant the pay scale of the College Lecturer to the applicants to which they are legally entitled from the date of their appointments;
- (iii) Refix the pay of the applicants in the pay scale of College Cadre and grant all consequential reliefs to the applicants like seniority and arrears of salary as a result of refixation of pay.

3. The respondents opposed the claim of the petitioners, inter alia, on the ground that the application filed by the petitioners was grossly time-barred as they were appointed as Lecturers in the year 1977 and it was after more than ten years of their appointment, they were claiming higher pay-scale. They accepted appointments in the scale of Rs. 300-600 and neither did they object or express any grievance in this regard at the time of their appointment nor at the stage of first revision of scales of College Lecturers, which too was done in the year 1977. It was maintained that the cadre of Yoga & Health Organization was separate from the College cadre. The educational qualifications and duties were also different. Thus, they could not compare themselves with college Lecturers. The State Yoga Health Organization was attached with the Government College of Education only as an administrative measure and, thus, the petitioners could not claim themselves to be a part of the said College.

4. The Tribunal, on a consideration of the matter and material on record was of the view that the qualifications prescribed for the two posts of Lecturers in

question were the same as that of a school cadre Lecturer. So much so, the said two posts were created in the scale of Rs. 300-600, which was revised to Rs. 700-1300 in the school cadre. A reference was also made to a notification dated 30.11.1994 issued by the Finance Department vide which two posts of Lecturers in Yoga Health Centre were equated with school cadre Lecturers in the scale of Rs. 700-1300. It was observed that the stand set out by the respondents was that the State Yoga Health Organization had not yet been recognized as a College. The Tribunal referred to another decision by the same Bench involving a similar issue, wherein, a Junior Librarian in the State Yoga Health Organization claimed that since she had been working at College cadre, she was entitled to the same scale as was admissible to the other Librarians of the College. Since the said O.A. was dismissed by the Tribunal on 22.05.2001, shortly before the decision in the present case, the Tribunal dismissed the O.A. filed by the petitioners, vide order dated 28.05.2001.

5. Thus, this petition.

6. We have heard the counsel for the parties and perused the records.

7. The short ground on which the petitioners have sought to build their case is that though they were appointed as Lecturers at Government Yoga Health Organization but for all practical purposes the said organization was a part of the Government College of Education, Sector 20, Chandigarh. The petitioners worked under the administrative control of Principal of the said College. Additionally, they were also performing many other duties of College Lecturers such as tutorial classes, morning assembly, examination duty etc. Thus, they were entitled to the pay-scale of College Lecturers and their pay, accordingly, required to be refixed.

8. What needs to be re-noticed, at this juncture, is that the sanction was accorded for creation of two posts of Lecturers in Yoga Health Centre Chandigarh to start a Diploma Course in Yoga. Concededly, these posts were created in the scale of Rs. 300-600. The applications to fill up the said two posts were invited by the Department of Sports, Chandigarh Administration, again specifying the scale i.e. Rs. 300-600. An analysis of the letters of appointment of the petitioners also reveal that they were appointed in the Yoga Health Organization, Sector 23, Chandigarh in the scale of Rs. 300-600 and the appointment offered to the petitioners was subject to the terms and conditions set out therein. They were asked, in case the said terms were acceptable to them, to report for duty to State Yoga Organizer. The petitioners accepted their appointments and continued to work since 1977.

9. It appears that the respondents in order to affiliate the Government Yoga Health Organization with the Punjab University, had initiated the requisite correspondence, which eventually culminated into a decision of the Faculty of Education in its meeting held on 30.08.1976. A bare reading of the minutes of the said meeting of Faculty of Education (Annexure P-6/A) suggest that the affiliation to start a new course could be afforded only to a College and not to

some State Organization in view of the requirement of the Act. The reference made by the petitioners to the agenda item placed for consideration before the Syndicate in its meeting held on 16.05.1981 does not seem to advance the case of the petitioners any further. All what the said document shows is that an Inspection Committee had visited the State Institute of Yoga on 04.05.1981 and on a consideration of the requisite factors and features, recommended the affiliation in Bachelor of Education in Yoga at Government College of Education, Chandigarh subject to certain conditions. One of the conditions to be complied with was that the existing Lecturers must be placed in the usual Lecturer grade of Rs. 700-1600. It appears, that the Chandigarh Administration never acceded to the said recommendations. In fact, in its written statement before the Tribunal, the stand set out by the respondents in no uncertain terms was that the recommendations of the Syndicate were not binding on the Administration for the purpose of appointments and release of grades by the Administration to its various staff working in Government institutions.

10. It would be apposite to point out here that the scale of Rs. 300-600, in which the said two posts were created, were equated to the school cadre Lecturers, whereas, the college cadre Lecturers, at the relevant time, were placed in the scale of Rs. 700-1600. Since they were appointed under the Department of Sports, therefore, as rightly maintained by the respondents, were not entitled to the UGC pay scale of Rs. 700-1600, which were later revised to Rs. 2200-4000. Not just that, the State Yoga Health Organization in which the petitioners were appointed, was attached with the Government College of Education purely as an administrative measure. The cadre of the Yoga Health Organization was separate from the College cadre. The petitioners were neither appointed in the College cadre nor were placed in the scale of a Lecturer borne on a College cadre. Thus, by no stretch of imagination, the petitioners could claim themselves to be a part of the staff of the Government College of Education. The stand set out by the respondents in no uncertain terms was that the State Yoga Health Organization was not recognized as a College, therefore, the said two posts of Lecturers in Yoga Health Centre were rightly equated with the school cadre Lecturers.

11. On a conspectus of the matter as a whole, we are of the view that the petitioners opted to accept the offer of appointment in the scale of Rs. 300-600, which was equated to school cadre Lecturers and not equal to college cadre Lecturers who at the relevant time were placed in the scale of Rs. 700-1600. That being so, they could not after a decade, ask for a scale of a college Lecturer. The State Yoga Health Organization in which the petitioners were concededly appointed, was never recognized as a College. Additionally, the Tribunal had examined the notification dated 30.11.1994 (Annexure A-21), issued by the Chandigarh Administration, vide which two posts of Lecturer in Yoga Health Centre were equated with the school Lecturers in the scale of Rs. 700-1300. Strange though, the said notification remain unchallenged and is not questioned even in the present proceedings. Thus, the prayer of the petitioners, to grant them the pay scale of College Lecturers, that too, from the date of their

appointments and to re-fix their pay, along with the benefits in terms of seniority and arrears etc., cannot be countenanced. We do not find any reason, least plausible, to interfere with the decision rendered by the Tribunal dated 28.05.2001 (Annexure P-17). Thus, the petition is dismissed, being devoid of merit.