

(2009) 07 SC CK 0156

In the Supreme Court Of India

Case No : Civil Appeal No. 4606 of 2009 (Arising out of SLP (C) No. 23488 of 2004)

Government of Goa and Another

APPELLANT

Vs

J.M.R. Noronha

RESPONDENT

Date of Decision : 22-07-2009

Acts Referred:

Citation : (2009) 6 BomCR 201 : (2009) 15 SCC 123 : (2010) 1 SCC(L&S) 495

Hon'ble Judges : Tarun Chatterjee, J; R. M. Lodha, J

Bench : Division Bench

Advocate : S. Ravi Shankar, for the Appellant; Prashant Kumar, Triveni Poteker, Punit Jain and Chander Shkhar Ashri, for the Respondent

Final Decision : Allowed

Judgement

R.M. Lodha, J.—Leave granted.

2. J.M.R. Noronha, respondent, filed a writ petition before the High Court of Bombay at Goa praying therein for following reliefs:

(a) That this Hon'ble Court be pleased to pass an appropriate Writ of Mandamus, order or direction, calling for the records proceedings before the Respondent No. 1/Committee which was constituted pursuant to the Judgment of this Honourable Court dated 25.3.1998 in Writ Petition No. 48/97 and after examining the legality, validity and the reasonability of the decision of the Committee be pleased to quash and set aside the same.

(b) that this Hon'ble Court be pleased to grant an appropriate Writ of Mandamus or any other appropriate writ, order or direction, ordering and directing the Respondents herein to forthwith grant to the petitioner, the benefit of revised A.I.C.T.E. pay scale of Rs. 3700-5700, instead of and in place of Rs. 2200-4000, with effect from the date, as granted to other similarly situated persons vide Order dated 7.5.1994.

3. The Division Bench allowed the writ petition in terms of prayer Clauses (a) and (b) on the ground of discrimination, namely, that the Workshop Superintendent of the Agnel Polytechnic, Verna was given the revised pay scale of Rs. 3700-5700 while the petitioner was denied the same pay scale. This is what the Division Bench said:

9. We have not thought it necessary to consider the submission made by Shri Sonak on behalf of the petitioner, that Shri A.K. Bidkar should not have associated himself with the Committee or its deliberations, in view of the fact that we find that the grievance made out in the petition that the petitioner has been discriminated against is justified. Nothing is placed on record to show as to why the Workshop Superintendent of the Agnel Polytechnic, Verna, was found to be entitled to the revised pay scale, whereas the petitioner was not....

4. The learned Counsel for the appellant submitted that the revised pay scale of the Workshop Superintendent, Agnel Polytechnic, Verna, was withdrawn way back in 1998 and pay scale of Rs. 2200-4000 was restored to that Officer.

5. Vide communication dated July 14, 1998, the post of Workshop Superintendent of the Agnel Polytechnic, Verna, was downgraded from the scale of Rs. 3700-5700 to the scale of Rs. 2200-4000/-. The said communication reads thus:

No.17/18/94-EDN (COL)/4362 Government of Goa Directorate of Technical Education Porvorim -Goa.

Dated : 14/7/98

To, The Suervisor, Agnel Polytechnic Verna.

Sir, I am directed to inform you that it has been decided to downgrade the post of Workshop Superintendent of the Agnel Polytechnic, Verna, from the scale of Rs. 3700-5700 to the scale of Rs. 2200- 4000/-.

In view of the above, you are requested to issue necessary order down grading the post of workshop Superintendent of your institute as indicated above at your earliest, with a copy thereof endorsed to this office for information.

Yours faithfully, -Sd- (A.K. Bidkar) Director of Technical Education Porvorim -Goa

Copy to: 1. The file of agnel Polytechnic, Verna.

6. We are informed that the Workshop Superintendent, Agnel Polytechnic, Verna, did not challenge the aforesaid communication and the same has attained finality.

7. The High Court appears to have overlooked the fact that much before the matter was decided by it, the revised pay scale of Superintendent, Agnel Polytechnic, Verna stood withdrawn and he was put in the pay scale of Rs. 2200-4000/-, the same scale which the petitioner was getting. Had this fact been taken into consideration by the High Court, ought we know, what would have been its decision in the matter. On this short ground, matter needs to be sent

back to the High Court.

8. The appeal is, accordingly, allowed and the judgment dated January 12, 2004 is set aside. Writ petition is restored to the file of the High Court for fresh consideration and disposal in accordance with law. As the matter is quite old, we request the High Court to expedite its hearing.