

(2010) 05 SHI CK 0141
In the High Court Of Himachal Pradesh

Jawind Lal Chauhan

APPELLANT

Vs

H.P. Institute of Public Administration and Another

RESPONDENT

Date of Decision : 03-05-2010

Acts Referred:

Citation : (2010) 05 SHI CK 0141

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Karol, J.—Petitioner has prayed for the following relief:

a) The orders dated 17.9.96, 10.10.96 of re-fixing of pay scales be declared as illegal, null and void, arbitrary and in-operative and with consequential relief the same be set aside and cancelled and applicant be declared to be entitled for grant of revised pay scale as payable to the Librarian working in PIPA i.e. Rs. 3700-5700. The pay of the applicant be re-fixed on the basis of the said pay scale right from 1.1.1986.

b) That without conceding or admitting that the applicant is entitled to pay scale of Rs. 3700-5700 as payable to the Librarian working in PIPA, the applicant makes alternative prayer that in case this tribunal comes to a conclusion at any stage that the applicant is not entitled to the said scale of Rs. 3700-5700 in that event the applicant be granted pay scale of Rs. 2200-4000 as per notification dated 11.6.1992 without putting rider of qualification mentioned in the said notification to which the applicant is entitled from the same date of 1986.

c) That the notification dated 3.4.91 of re-fixing of pay scale of Rs. 1500-2640 to Librarian & Assistant Librarian in HIPA be set aside and the same be declared as null and void.

d) It may be further ordered and declared that the qualification prescribed by the UGC for Librarian cannot be enforced with regard to applicant while granting the

above mentioned pay scale keeping in view that he is already working as Librarian and having experience of 23 years as Librarian or in the alternative the said qualification be relaxed as has been done in case of various other Departments of Government of Himachal Pradesh.

e) That the post of Librarian in HIPA may be ordered to be equated with the post of the Librarian in PIPA.

2. Petitioner was appointed as Assistant Librarian in the Education Department of the State. His salary was fixed in the pay-scale of Rs. 80-150. In the year 1968, the same was revised to Rs. 125-300. Later on the same was revised to Rs. 300-600, but with retrospective effect, that is, w.e.f. 1.11.1966.

3. Finding better prospects petitioner applied for the post of Librarian which was advertised by respondent No. 1. In terms of order dated 1.3.1974 petitioner was appointed as a Librarian in the pay-scale of Rs. 160-400. His pay-scale was revised and enhanced to Rs. 570-1080 in the year 1978. The same was further enhanced to Rs. 1500-2640 in the year 1986. Apparently petitioner represented for enhancement of his pay-scale. The question of the revision of his pay-scale was considered by a Committee and a decision was taken to inquire the position of the pay-scale from the Institute of Public Administration of the neighbouring State i.e. Punjab.

4. In Punjab the Scheme of pay-scale payable to the Librarian and the Assistant Librarian as is evident from the letter dated 21.2.1990 is as under:

Name of post	Pre-revised scale	Revised scale	Educational qualifications	w.e.f. 1.1.86
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Librarian	Rs. 1200-1900	Rs. 3700-5700	UGC qualifications (UGC scale) (UGC scale) as applicable in Universities/ Colleges	
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Assistant Librarian	Rs. 700-1600	Rs. 2200-4000	Librarian (UGC) (UGC scale) -do-	
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5. Noticeably the educational qualification of Librarian and the Assistant Librarian in Punjab is UGC qualification as applicable in Universities/Colleges.

6. Later on State of Himachal Pradesh issued a Notification dated 11.6.1992 revising the scale of Librarian in the following terms:

Designation	Existing scale	Revised scale
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Librarian	570-1080	2200-4000 (U.G.C) 620-1120 (SG) scale for those who fulfill the requisite qualification prescribed by the U.G.C.
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Those who do not fulfill the qualification prescribed by the U.G.C. will get the state scale of Rs. 1500- 2640.

7. Undisputedly, petitioner does not fulfil the educational qualification prescribed by the UGC. Thus he has assailed the condition of educational qualification prescribed by the UGC being arbitrary.

8. The same cannot be said to be arbitrary in any manner. It has been imposed only to enhance the standard of excellence in the service. It is not a case where petitioner's pay-scale has been reduced from what was paid to him earlier. No doubt the Education Department of the State has not laid down any such condition or they may have decided to relax such a condition. Each department/organization has to take a Policy decision based on attending circumstances. Petitioner himself chose to give up his services in the Education Department and joined as a Librarian in a separate organization i.e. the Institute of Public Administration. The working conditions, needs and requirements of both the organizations are not same. The condition imposed by the respondent-State cannot be said to be irrational, arbitrary or whimsical.

9. The Apex Court in *M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another*, has held that even where the employees were performing similar duties and functions and the posts are unchangeable, a valid classification can be made on the basis of educational qualifications.

10. It is next argued that even the revision in the pay-scale is not similar to the post of a Librarian in the Institute of Public Administration of the neighbouring State. Now fixation of pay is a policy decision to be taken by the Government based on prevailing factors and consideration.

11. The State Government, after due deliberation has revised the pay-scales with retrospective effect subject however to fulfillment of certain conditions. Simply because petitioner does not fulfill such conditions it cannot be said that they are arbitrary, whimsical or capricious.

12. Mr. Onkar Jairath, learned Counsel for the petitioner has next argued that petitioner retired as a Librarian without any promotional avenues. On the other hand Mr. Ram Murti Bisht, learned Deputy Advocate General has contended that the petitioner has availed the benefits of Assured Career Progression Scheme.

13. My attention has been invited by Mr. Onkar Jairath to the decision rendered by the Apex Court in *Food Corporation of India and Others Vs. Parashotam Das Bansal and Others*, to contend that the Scheme of Accelerated Career Progression is distinct and different from grant of selection grade.

14. Now in this petition I am not going into this question as in this petition, petitioner has neither made any grievance nor prayed for such a relief. It is always open for him to take recourse to such remedies as are available to him in accordance with Law.

15. No legally enforceable right of the petitioner stands breached.

For the aforesaid reasons, the present petition without any merit is dismissed.