
(2001) 10 RAJ CK 0077

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6324 of 1998

Laxmi Narain Sharma and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 30-10-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 RLW 1748

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Rajendra Soni, for the Appellant; Naina Sarraf and Amrish Jain, for the Respondent

Judgement

Keshote, J.—Heard learned counsel for the parties and perused the writ petition, reply to the writ petition, annexures and rejoinder to the reply filed by the petitioner.

2. The petitioners in all 15 in number have filed writ petition under Article 226 of the Constitution of India and are praying for direction to be issued to the respondents to give them the benefits of Revised Upgraded UGC Pay-Scales i.e. Rs. 700-1600 w.e.f. 1.4.1980.

3. It is next that the respondents be further directed to pay the petitioners the arrears of the fixation with interest @ 18% per-annum and to give them other consequential benefits admissible under the law as per the judgment dated 8th October, 1990 of this Court in the case of Rajasthan University and College Physical Education Teachers' Association and another v. The State of Rajasthan (1).

4. The petitioners have passed their B.A./M.A. and B.Lib Examinations and thereafter having been regularly selected were appointed and are working as a Librarian in various Colleges of Education Department, Government of Rajasthan, from the date of their initial appointment till date.

5. The respondents have revised the pay-scale's of the Lecturers/Reader's and Professors in the UGC Pay Scales w.e.f. 1.4.1980 but the Pay Scales of Librarian and the Physical Education Teachers" working in the various Colleges and university have not been revised as per the UGC Pay Scales. This action of the respondents had been challenged by the Rajasthan University and College Physical Education Teacher's Association & another by filing a writ petition before this Court bearing SBCWP No. 608/1982 and the writ petition was allowed by the Court on 8th October, 1990. Copy of the judgment is being annexed with this writ petition as (Annexure-1). Against this judgment of the learned Single Judge, the respondents had preferred a DBC (W) Sp. Appeal No. 1T9/1991. The said appeal was placed for preliminary hearing in the Court on 6.3.1997 and the learned Addl. Advocate General of the State had made a statement before the Division Bench that the respondents have complied with the order passed by the learned Single Judge and the payment of difference of Pay Scales and the amount of arrears have also been paid to the petitioners according to the directions given in the judgment. On this statement made by the learned Addl. Advocate General, the appeal preferred by the respondents was dismissed by the Division Bench as having become infructuous on the same day.

6. It is urged that after this decision of the Court, the respondents are bound to give the benefits of the upgraded UGC Pay Scales to the Librarians working in the various Government Colleges and in the Universities in the State. It is submitted that the respondents have taken a stand that the benefits of the Judgment of the Court in SBCWP No. 608/1982 is applicable only to those employees of the Colleges and the Universities on whose behalf the Association had filed that petition. It is expected from the respondents that they have to pass an identical order of giving benefits of revised upgraded UGC Pay Scales to the petitioners. In this petition, the petitioners have given out that the judgment of this Court in SBCWP No. 608/1982 has been complied with in the case of those persons on whose behalf or for whose benefits the writ petition had been filed but when similar benefits were not given despite of repeatedly requests have made by the petitioners, they sent a notice for demand of justice dated 22.10.1998 through their Advocate to the respondents which is annexed with this writ petition and marked as (Annexure-5). On this notice of demand of justice, the respondents did nothing that is how this writ petition has been filed by the petitioners in this Court.

7. Having heard the learned counsel for the parties, I am satisfied that this matter is squarely covered by the decision rendered by the Court in the Case of Rajasthan University and College Physical Education Teachers" Association and Anr. v. The State of Rajasthan (2). Learned counsel for the respondents raised only grievance that as per the criteria laid down by the U.G.C. these upgraded Pay Scales are made available to those librarians who have to their credit the degrees in second class. As all the petitioners are having a degree in IIIrd class therefore, they are not entitled for this upgraded U.G.C. Pay- scale.

8. Though this contention is raised by the learned counsel for the respondents but the respondents have not produced the criteria as prescribing for the eligibility for getting this U.G.C. upgraded pay-scale for the Librarian before this court. Learned Counsel for the respondents made reference to the documents (Annexure R/1), the order passed by the Education Department, Govt. of Rajasthan, Jaipur which has been made to implement the order passed by this Court on 8.10.90 in writ petition No. 608/82. The earlier writ petition had been filed for the benefits of the PTIs" and Librarians and from the judgment of this court dated 8.10.90, I do not find that any such defence had been taken therein by the respondents. Not only this, this court has not made these benefits available only to those Librarians who have secured Ist or IInd Class in B.A., B.Sc. and B.Com. and Ist or II Class M. Lib or Ist or IInd Class M.A.M.SC. and M.Com. and Ist or IInd Class B.Lib. or diploma in Library Science. Under the document (Annexure R/1) it is true, that the respondent State has made available these benefit of upgraded UGC Pay Scales on the terms and conditions that the same is admissible only to those existing incumbents who possible the qualification as aforesaid but unless this condition laid down by the UGC or by this Court under the judgment dated 8.10.1990, I fail to see any justification or reasonableness in these terms and conditions laid down for the admissibility of the upgraded UGC Pay Scale to the Librarians by the respondents.

9. When this Court has accepted that the Librarians working in the various Colleges of the Government of Rajasthan and Universities are entitled for the benefit of the upgraded UGC Pay Scales without there being any condition having been imposed of Ist Class or II Class Degree or PG Degree as we'll as Ist Or IInd Class Degree or Diploma in Library Science how it is permissible to the respondents to put these terms and conditions vide document (Annexure-R/1). When this Court has already accepted this claim of the Librarians for this upgraded UGC Pay-Scales and it has to be given to all the Librarians irrespective of the fact whether they came before this Court or not. The earlier writ petition had been filed by the Association and the judgment given therein was for all the Librarians. The stand taken by the respondents first; to get a separate order from this Court for this pay scale and secondly only those existing Librarians who are I Class or II Class Degree holders in academic or in Library Science are eligible for this benefit are wholly perverted and arbitrary.

10. The Slate of Rajasthan is a welfare State and it is not an ordinary employer or a businessman or industrialist or a shopkeeper, has to exhibit itself as a model employer. It is not a case of the respondents that the benefits of the Judgment of this Court was given only to the Librarians who are possessing Ist or IInd class Degree or PC Degree in Library Science or in Academic. This Court puts this question to the learned counsel for the respondents and he is unable to give any reply to the same, In the absence of any reply to this question otherwise also it is very difficult to accept that this benefits were given only to those existing Librarians who are having Ist or IInd Class Degree in PG Academic only in Library Science. The respondents it is to be stated at the costs of the repetition have

failed to produce any material on record that this upgraded UGC pay scale has been restricted by the UGC to those existing Librarians who are holding the Ist or IInd Class Degree or PG Degree in Academic and Ist or IInd Class Degree in Library Science. Unless it is established as a fact to the satisfaction of the Court that subject to the possessing of Degree of Ist or IInd Class in Academic and also in Library Science, this upgraded UGC pay scales cannot be given to the petitioners, the State Government is not correct in its approach to restrict the availability of this benefit of upgraded UGC pay scales on the terms and conditions as given out in (Annexure-R1).

11. The whole approach of the respondents in this matter is not befitting to the officers of the welfare State. After this decision in fact, the respondents should have voluntarily extended the benefit of this upgraded pay scale to all the existing Librarians but the same had not been done. On the contrary, the respondents compelled the petitioners to approach this Court.

12. The State of Rajasthan is the biggest litigants in the Courts. It is not unknown to the State of Rajasthan that there is a heavy workload in the Court. The Officers of the State of Rajasthan is to make all endeavor to see that the unnecessary litigation may not come before this court. In my opinion, from this approach if the matter would have been examined by the respondents certainly. I am confident that this litigation would not have come to this Court. In fact, the Officers" of the State thrust this litigation upon the petitioners.

13. The litigation before the Courts is not luxury or amusement or entertainment. It heavily costs to the litigants, only when the litigants are unable to get justice and due claims from, the State of Rajasthan they are constrained to come to the Court.

14. It is not a luxury litigation. The Pay Scales are being revised or upgraded by the UGC or the Government for the obvious reason so the employees may get the sufficient emoluments to meet out, fulfil and discharge their obligations. In such matters, the approach of the Officers of the State of Rajasthan should have been justice oriented and not pendentic.

15. This Court has already decided identical matter but the benefits of the same are not given to the petitioners. The judgment of this Court dated 8.10.1990 is not given in an individual case. It is a declaratory judgment and the benefits of which are to be extended to all the existing Librarians and the Physical Education Teachers" working in the University and also in various Government Colleges or in the added Colleges affiliated to the Universities w.e.f. 1.4.1980. Despite of this declaratory judgment, the respondent State of Rajasthan has not given same benefit to the petitioners. This declaratory judgment had attained the finality and the benefits there of were not restricted to existing Librarians subject to any condition but by passing the Order (Annexure-R1) the benefits of the same have been made subject to certain terms and conditions. It may be a case of committing the contempt of Court order. It is a different matter that no such

process has been initiated so for this modification or alterations of the judgment of this Court by the respondents at their own.

16. As a result of the aforesaid discussions, this writ petition succeeds and the same is allowed. It is hereby declared that the petitioners are entitled for the upgraded UGC pay scales i.e. Rs. 700-1600 w.e.f. 1.4.1980. In case, after 1.4.1980, this upgraded pay scales are revised, the petitioners shall also be entitled for the revised pay scales.

The respondents are directed to revise and fix the pay of all the petitioners in the pay scale of Rs. 700-1600 w.e.f. 1.4.1980 or from the date of their appointment whichever is later. In case, the pay scales are further revised, the respondents are directed to revise the pay of the petitioners as per the pay scales revised from time to time. The arrears of the Fixation of the pay are to be determined and paid to the petitioners accordingly. The petitioners shall also be entitled to get interest on the arrears on pay fixation @ 12% per-annum from the date of filing of the writ petition i.e. 1.12.1998. The amount of interest which is payable to the petitioners on the arrears pay fixation shall also be determined by the respondents. All this exercise are to be undertaken and completed by the respondents within a period of six months from the date of receipt of the certified copy of this order.

17. It is a case where the petitioners were compelled by the officers of the respondent State of Rajasthan to file this petition. It is not gain say that the litigation in the Court heavily costs. It is to be stated at the costs of repetition that litigation is neither luxury nor entertainment nor an amusement. The petitioners are the salaried persons and it is very difficult for them to bear out the expenses of the litigation. But for this arbitrary and perversed approach of the respondents, the petitioners are to file this petition. I consider it to be a fit case where the costs of the petition should be awarded against the respondents.

18. The awarded of cost does not mean a taken cost or cost for the sack of cost. The costs are awarded so that the litigant may be compensated for costs which he incurred in the litigation. Learned counsel for the petitioners submits that Rs. 15,000/- has been paid by the petitioners to him and Rs. 1,500/- has been incurred by the petitioners towards expense of the filing of the writ petition. This amount is not unreasonable or towards higher side. I am satisfied that this amount has been incurred by the petitioners towards the expenses of filing this writ petition. The respondents are, therefore, directed to pay Rs. 15,000/- plus Rs. 1,500/- total Rs. 16,500/- as costs to the petitioners.

19. The petitioners had filed the joint petition, though each petitioner has individual, distinct and separate cause of action. Even if they decide to file this joint petition to this their act there may not be any serious objection but certainly they have to pay the amount of Court fee which is payable on 15 writ petitions. The petitioners are directed to pay Rs. $25 \times 14 + 1 \times 14 + 2 \times 14 + 2 \times 14 + 10 \times 14 = \text{Rs. } 660=00$ additional court fee. The Registry is directed not to

issue the certified copy of this order either to any of the petitioner or to their Counsel unless this amount of the addl. Court fee as aforesaid is paid by them.