
(2014) 10 P&H CK 0094
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9843 of 2010

Madan Pal Singh	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2015) 1 SCT 722

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Manoj Chahal, Advocates for the Appellant; S.S. Goripuria, D.A.G, Advocates for the Respondent

Judgement

Rameshwar Singh Malik, J.—Feeling aggrieved against the alleged inaction on the part of the respondent authorities, petitioner has approached this court by way of instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of Mandamus, directing the respondent authorities to grant the pay scales to the petitioner, prescribed for the post of Librarian. Notice of motion was issued and pursuant thereto, written statement was filed on behalf of respondents No. 1 and 2. A separate reply was also filed on behalf of the respondent No. 4-University whereas nobody has put in appearance on behalf of respondent No. 3-college.

2. Learned counsel for the petitioner submits that vide communication dated 5.5.1986 (Annexure P-3), respondent-University had granted full fledged approval to the appointment of the petitioner. So far as respondent-college was concerned, vide communication dated 19.7.1985 (Annexure P-7), case of the petitioner was duly considered and recommended for revision of pay scale for which the petitioner was found entitled. However, despite there being no dispute about the eligibility, competence and entitlement of the petitioner for the prescribed pay scale of Librarian, the actual benefit thereof was not granted to him and that too, without disclosing any reason. Learned counsel for the

petitioner fairly states that since the petitioner could not come to the Court at an earlier point of time, apprehending unwarranted action against him at the hands of respondent authorities, arrears of pay scales may be restricted to a period of 38 months, before filing the writ petition. He prays for allowing the writ petition, issuing appropriate directions to the respondent authorities.

3. Per contra, learned counsel for the State submits that petitioner is coming to the court at highly belated stage and was not entitled for the relief being sought. He prays for dismissal of the writ petition. Similarly, learned counsel for respondent-University submits that although the respondent-University issued communication Annexure P-3 granting full fledge approval to the appointment of the petitioner and his eligibility as well as entitlement were not in dispute, yet he was not entitled for the relief being claimed at this belated stage. He further submits that petitioner was sleeping over the matter and now at this belated stage, he filed the writ petition which was not maintainable. In support of his contentions, learned counsel for the petitioner relies upon a judgment Bal Krishan Vs. State of Punjab and others passed by this Court in CWP No. 18498 of 2011 (Bal Krishan v. State of Punjab and others). He prays for dismissal of the writ petition.

4. Having heard the learned counsel for the parties at considerable length, after careful of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, instant writ petition deserves to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

5. It is a matter of record and not in dispute that appointment of the petitioner was duly approved by the competent authority of the respondent-University, vide communication Annexure P-3. The respondent-college, being a grant-in-aid college, also recommended the case of the petitioner vide communication Annexure P-7 for granting the prescribed pay scales for the post of Librarian. In view of these communications issued by respondents themselves, eligibility, competence and entitlement of the petitioner has been duly established on record. In such a situation, such type of serious inaction on the part of the respondents cannot be sustained.

6. Once the entitlement of the petitioner was not in dispute at any relevant point of time, respondent authorities were expected to act, in accordance with law and the service benefit for which the petitioner was entitled, ought to have been released in his favour without any delay. So far as the delay on the part of the petitioner in coming to the Court is concerned, he is going to suffer for that. He would not be entitled for the arrears of increased amount of salary on account of prescribed pay scale including the revised pay scales, beyond 38 months before filing present writ petition on 24.5.2010.

7. Coming to the judgment relied upon by the learned counsel for the respondent-University, the same is not applicable to the facts of the present case and is of no

help to the respondents, being distinguishable. Further, against the same very judgment, LPA No. 2182 of 2012 was filed before this Court and the LPA Bench on 20.5.2014, passed the following order:-

"In view of stand taken in the affidavits placed on record, this appeal has become infructuous. Pay of the appellant stands revised. Revised pension has also been sanctioned. On account of the order passed, if any benefit is not granted to the appellant towards gratuity, leave encashment etc., counsel for the Municipal Council, Sangrur states that benefit will be released within two months from today."

8. In view of the abovesaid discussion, it can be safely concluded that respondent authorities acted in arbitrary manner while denying the relief sought by the petitioner. Thus, petitioner is declared entitled for the relief being claimed.

No other argument was raised.

9. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the action the respondent authorities is arbitrary and discriminatory, on the face of it and the same is hereby set aside.

10. Consequently, respondent authorities are directed to grant the prescribed pay scale for the post of Librarian to the petitioner because his eligibility, competence and entitlement was neither in dispute earlier, nor has been disputed before this Court. Petitioner shall also be entitled for the consequential revised pay scale. However, it is made clear that petitioner shall be entitled for all the notional benefits including fixation of pay in prescribed pay scale but he shall be entitled for the arrears of increased salary, on account of pay scales demanded by him, only for 38 months before filing this writ petition on 24.5.2010, i.e. with effect from 24.3.2007.

11. Let respondent authorities do the needful within a period of two months from today. If the needful is not done within the stipulated period, petitioner shall be entitled for the arrears of salary alongwith interest @ 9% from 24.3.2007 till the date of actual payment. Resultantly, instant writ petition stands allowed, however, with no order as to costs.