
(2014) 07 TP CK 0047

In the Tripura High Court

Case No : W.P. (C) No. 257 of 2007

Moulana Md. Siraj Uddin VsThe Director of School Education

Date of Decision : 02-07-2014

Acts Referred:

Citation : (2014) 07 TP CK 0047

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

**Advocate : S. Deb, Sr. Advocate and S. Chowdhury, Advocate for the Appellant;
S. Chakraborty, Addl. G.A., S.M. Ali, Advocate for the Respondent**

Final Decision : Allowed

Judgement

S.C. Das, J.—By filing this writ petition, the petitioners inter alia, prayed for issuing a writ of mandamus directing respondent Nos. 1 and 2 to grant them the benefit of pay-scale of Rs. 1300-3220/- in the same manner as it is granted to respondent Nos. 4 to 9 who were similarly situated.

2. Heard learned Sr. counsel Mr. S. Deb assisted by learned counsel Mr. S. Chowdhury for the petitioners and learned Addl. G.A. Mr. S. Chakraborty for the State-respondent Nos. 1 and 2 and learned counsel Mr. S.M. Ali for the respondent Nos. 4 to 7. The rest of the respondents have chosen to remain absent.

3. It is inter alia contended by the petitioners that they were appointed as teachers of Fulbari Senior Madrassa and were brought under Grand-in-aid scheme (Tripura Special Institutions (Madrassa) Recognition and Grant-in-Aid Rules, 1996) under Memo No. F.10(22-59)-DSE/84 issued by respondent No. 1 on 20.05.1985. As per the Grant-in-Aid Rules, pay and allowances of the petitioners, being teachers of Madrassa were supposed to be paid by the State-respondents. There were a few rounds of litigations between the petitioners and others and the State-respondents and the petitioners had been working as the teachers of said Fulbari Senior Madrassa. By Memo dated 03.06.1997 (Annexure-P/5 to the writ petition), the benefit of scale of pay of Rs. 1300-3220/- was given

to the respondent Nos. 8 to 19 w.e.f. 19.02.1996 and similar benefit was given to respondent Nos. 4 to 7 by Memo dated 12.09.1997 (Annexure-6 to the writ petition) w.e.f. 20.02.1996. It is the case of the petitioners that the petitioners and the respondent Nos. 4 to 19 are similarly situated and they have requisite qualification as a Graduate Teacher and were/are entitled to get the pay-scale of Rs. 1300-3220/- but even after representations submitted to the State-respondents time to time, the benefit was not provided to them. They issued a demand notice through their engaged learned counsel but did not receive positive response and hence, they filed the writ petition seeking direction to the respondents to give them the same benefit as has been given to respondent Nos. 4 to 19.

4. Respondent Nos. 1 and 2 contested the case by filing a counter affidavit inter alia stating that as per judgment dated 04.09.2001 passed by the High Court in WP(C) 287 of 2001, the petitioners will not get any arrears for the non working period when the Madrassa was not functioning w.e.f. 1986 to July 1987 and that they will be entitled to retiral benefits fixing notional increment during the said period and they will get cash benefit only from the date of their re-joining in Fulbari Senior Madrassa i.e. 03.02.1997. It is also contended by the respondents that for the benefit of the pay-scale claimed by the petitioners, they should submit a representation to the concerned Inspector of Schools, Dharmanagar who is the Head of Office of Fulbari Senior Madrassa and the Inspector of School will examine the proposal whether justified or not consulting the service book and other records and if the Inspector of School found the proposal justified he will send the proposal to respondent No. 1 for sanction.

5. It is an admitted position that the petitioners have been working as teacher of Fulbari Senior Madrassa. It is also an admitted position that Fulbari Senior Madrassa is covered by Grant-in-Aid scheme of the Government of Tripura and the petitioners are in the role of teachers of the said Madrassa and therefore, entitled to get the pay under the Grant-in-Aid scheme. It is also not disputed that the petitioners and the respondent Nos. 4 to 19 are similarly situated and the petitioners are having with requisite qualification to be treated as a graduate teacher of Fulbari Senior Madrassa. The respondents only contended that the petitioners should submit a proposal to the concerned Inspector of School, Dharmanagar for granting them the pay-scale of Rs. 1300-3220/- and in the event such a proposal is submitted, the Inspector of School will examine it consulting the service book and other relevant records and thereafter if found it justified will recommend it to the Director of School i.e. respondent No. 1 for sanction.

6. It is the case of the petitioners that the petitioners and respondent Nos. 4 to 19 are similarly situated. Respondent Nos. 8 to 19 working as teachers in Dao Dharani Siddikia Senior Madrassa and Sonapur Ahamodia Islamia Madrassa of Sonamura and the respondent Nos. 4 to 7 working at Tillabazar Islamia Senior Madrassa, Kailashahar. Annexure-5 and 6 to the writ petition show that the

respondents have been given the benefit of pay-scale of Rs. 1300-3220/-. While it is not disputed that the petitioners and respondent Nos. 4 to 19 are similarly situated having similar qualification and discharging similar duties, I find no justification at all as to why the benefit of similar pay-scale was not given to the petitioners. The petitioners submitted representation and also issued demand notice but the respondents did not give any positive response. I, therefore, find no justification to push the matter again to the respondents for taking a decision on the issue since it is abundantly clear that the petitioners and the respondent Nos. 4 to 19 are similarly situated and since it is not disputed that the pay-scale of Rs. 1300-3220/- has been given to the respondent Nos. 4 to 19, I think it justified to direct the respondents Nos. 1 and 2 to give the similar benefit to the petitioners also.

7. Accordingly, the writ petition is allowed. Respondent Nos. 1 and 2 are directed to give the benefit of pay-scale of Rs. 1300-3320/- to the petitioners in similar manner as granted to respondent Nos. 4 to 19 from the date, the petitioners were discharging similar duties like that of the respondent Nos. 4 to 19. The entire exercise should be completed within 60(sixty) days from today.

8. Parties to bear their own costs.