

(2012) 03 SHI CK 0018
In the High Court Of Himachal Pradesh
Case No : CWPT No. 9239/ 2008

Narinder Pal

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 23-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0018

Hon'ble Judges : Dharam Chand Chaudhary, J

Bench : Single Bench

Advocate : P.P. Chauhan, for the Appellant; J.K. Verma, Dy. A.G., for the Respondent

Judgement

Justice Dharam Chand Chaudhary, J.—The writ petition is filed with the following prayers:

- (a) Quash Annexure A-1 being issued illegally and arbitrarily.
- (b) Quash the condition contained in HP Civil Services (Revised Pay) Rules, 1998, which does not make the new pay scales applicable to the contract employees being arbitrary, illegal and unconstitutional inasmuch as it creates unreasonable classifications amongst the employees discharging similar nature of duties and has no nexus with the object sought to be achieved;
- (c) Quash the impugned action of the respondents whereby they are not allowing the pay scale of Rs.5480/- (DPEs/TGTs) and Rs.6400/- (Lecturers School Cadres) plus other allowances to the applicant, in the revised scales on the principle of equal pay for equal work, being arbitrary, malafide and illegal;
- (d) Direct the respondents to pay at least the minimum of the scales in the revised pay scale with DA etc. and other allowances for the same post held by the regular counterparts, i.e. TGTs and Lecturer, to the applicants w.e.f date of their initial appointments alongwith arrears and interest @ 18% thereon and all other consequential benefits;

- (e) Direct the respondents to pay the salary for the period for vacations/holidays to the applicants and also pay salary for six days casual leave;
- (f) Direct the respondents to pay Medical Allowance to the applicants w.e.f initial appointments alongwith interest @ 18% thereon till the payment of the same;
- (g) Restrain the respondents permanently from effecting recovery from the applicants of the amounts already paid to the applicants and repay the amounts if already recovered arbitrarily and illegally.

The reliefs hereinabove are claimed on the ground that the petitioners were initially engaged on contract basis, in accordance with the procedure prescribed for filling up the regular sanctioned posts at the fixed monthly salary plus allowances. According to the petitioners, they are performing the same and similar duties as are being performed by their counter parts on regular basis. They, however, are being paid fixed salary i.e. Rs.1650/- and Rs.1800/- plus allowances in the pre-revised scale. Initially, they were being paid monthly honorarium equal to the basic pay in the pay scale of Rs.1650 (DPEs/TGTs) and Rs.1800 (lecturers) plus allowances. However, on the revision of pay-scales, the payment of salary as per pay-scale has been arbitrarily denied to them vide impugned order dated 7.8.2002 Annexure A-1, without affording an opportunity of being heard to them. It is also claimed that the vacation salary as admissible to their counterparts on regular basis has been denied to them arbitrarily and now pursuant to the impugned order, Annexure A-1, the respondents have started effecting recovery from the pay of the petitioners.

2. Respondents have contested the writ petition on the ground that the petitioners being contractual employees are not entitled to the grant of revised pay-scale as admissible to their counterparts on regular basis. Para 2(2) of H.P. Civil Services (Revised Pay) Rules, 1998, which reads as under, has also been pressed in service.

Para 2(2). They shall not apply to the:-persons employed on contract basis except when the contract provides otherwise.

3. I have heard Shri P.P. Chauhan, learned counsel for the petitioners and Shri J.K. Verma, learned Deputy Advocate General, on behalf of the respondents.

4. The issue regarding the revised pay scale is the subject matter of LPA No. 105 of 2010, pending before this Court. Therefore, the case of the petitioners for the grant of revised pay scale shall be considered in accordance with the decision of LPA No. 105 of 2010, subject to its finality, within another two months. As far as the issue regarding vacation salary is concerned, it is squarely covered by the judgment of this Court rendered in CWP No.415 of 2000, titled as Baldev Singh and others vs. State of Himachal Pradesh and others and the judgment has become final. Therefore, the respondents are directed to release the due and admissible vacation salary, during the entire service period, to the petitioners in case the same has not been granted so far, within a period of four months from

the date of production of a copy of this judgment along with a copy of the writ petition and a copy of the judgment, referred to above. If the amounts are not disbursed as above, the petitioners will be entitled to interest @ 10% p.a. and the officers responsible for the delay shall be personally liable for the same.

The writ petition stands disposed of, in the aforesaid terms.