

(1998) 01 DEL CK 0096
In the Delhi High Court
Case No : C.W. No. 610 of 1997

Post-Graduate Students of M.D.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 27-01-1998

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1998) 46 DRJ 107

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : C.M. Khan, for the Appellant; Rekha Palli, for respondents 1 and 2, S.K. Mohanty, for counsel for NCT of Delhi and A.K. Sikri and Arun Sikri, for the Respondent

Final Decision : Allowed

Judgement

K. Ramamoorthy, J.—The writ petitioners 2 to 5 are the postgraduate M.D. students of (Unani) Jamia Hamdard, Hamdard University, New Delhi and have been undergoing the course of Unani Medicine (Indian Systems of Medicine) which is at par with Modern Systems of Medicines.

2. It is a common ground that there was a scheme framed by the Central Government in which some amount was ear-marked for the students and also salary to the employees who were employed for performing other duties the implementation of the scheme. It is also common ground that subsequently stipend was increased to Rs. 2500/- per month.

3. The main grievance of the petitioners 2 to 5 is that the post-graduate students in Modern Systems of Medicines and other branches of medicines are paid stipend between from Rs. 5,500/- to 6000/- per month by the State Governments and by the Central Government in some cases and while framing the scheme the Central Government should have fixed the same stipend to the students who are similarly situated. Petitioners 2 to 5 are similarly situated like

the other post-graduate students who are receiving the higher stipend amount. The learned Senior counsel Mr. Sikri appearing for the 4th respondent submits that it is a private institution and it is acting as per the scheme framed by the Central Government and whatever amount is fixed by the Central Government under the Scheme that is being paid to the petitioner and having regard to the scheme framed by the Central Government the petitioners 2 to 5 cannot seek a direction against the 4th respondent for payment of any enhanced amount.

4. The learned counsel appearing for the first respondent Vehemently contended that there is a lot of difference between the students who are doing modern Systems of Medicines in National Institution run by the Central Government and other institutions sponsored by the government and while framing the scheme the Central Government had taken into account all facts, namely, the branches of the Medicines and Education imparted and institutions where such an education is imparted and having regard to over all conditions prevailing in the field the Central Government had fixed the stipend at a particular rate payable to the student studying in the 4th respondent institution and subsequently it was enhanced to Rs..2500/-p.m. If the contentions of petitioners 2 to 5 are accepted that will prejudice the other students who are now receiving on similar course less than Rs. 5000/- per month and the very purpose of framing such a scheme by the Central Government would be defeated and the Central Government had not considered the financial implications. In any event, the petitioners have no right to claim* higher stipend when they are getting what is provided in the scheme.

5. The learned counsel brought to my notice paras 5 and 6 of the counter affidavit filed by the respondent and which reads as under:

In Banaras Hindu University, Post Graduate Institute of Indian Medicine was established in 1963. Faculty of Indian System of Medicine was established in 1978 which was later on renamed as faculty of Ayurved in 1985. Each medical course which has got its own course contents, period of training and method of examination. There is no disparity in the stipend paid in the institutions getting grant from GOI and the Jamia Hamdard Post Graduate students in payment of stipend by the respondent. The rate of stipend being paid in different stages under Central Scheme are Uniform i.e. Rs. 2500/- per month for the first year and Rs. 2800/- p.m. for the second year and third year students by the Ministry of Health & Family Welfare, Govt. of India. The stipend is paid to the P.G. Department under Central Scheme for five years. After completion of five years the state government take over the P.G. and it is on the State Government to fix the stipend.

It is humbly submitted that the Central Government has got no role in fixing the rate of stipend paid to the P.G. students of the Institution under the control of the State Governments. The Central Government is only fixing the rates of stipend in respect of Central Institutions like National Institute of Ayurveda, Jaipur, National Institute of Homeopathy, Calcutta and Institute of Post Graduate

Training & Research, Jamanagar, Gujrat. In so far as A.K. Tibbia College, Aligarh Muslim University. Aligarh and Banaras Hindu University, Banaras are concerned it is stated that these Institutions are under the control of University Grants Commission.

6. The stand now taken by the Union of India is that the position of the 4th respondent and students studying therein, the petitioners 2 to 5 are unique, distinct and different from other students and the Central Government had fixed the stipend on relevant considerations and the court has no power to interfere.

7. Right from the judgment of the Supreme in E.P. Royappa Vs. State of Tamil Nadu and Another, up to the case decided by the Supreme Court recently reported in State of Andhra Pradesh and others, etc. Vs. McDowell and Co. and others, etc., , the Supreme Court had laid down clearly the scope under Article 14 of the Constitution and the role of the public functionaries in dealing with not only the students studying in colleges but also civil servants working under the Government Agencies and the Public Sector Undertakings. Having regard to the position in law as laid down by the Supreme Court, I am of the view that petitioners 2 to 5 cannot be denied the stipend which the students in other branches of the medicines and the Union of India is obliged under the dictates of Article 14 of the Constitution to pay the same to the petitioners 2 to 5.

8. Accordingly, the writ of mandamus shall issue to the respondents 1 and 2 to provide to the 4th respondent the sum of amount of stipend paid by the Union of India to other students doing post-graduate course in the following terms:

for the 1st year Rs. 5600/- for the 2nd year Rs. 5700/- for the 3rd year Rs. 5900/- And whatever amount is to be paid by the Union of India shall be paid to the petitioners 2 to 5 with effect from 28.01.1997. Accordingly, the writ petition stands allowed. There shall be no order as to costs.