

(1994) 08 BOM CK 0046

In the Bombay High Court

Case No : Writ Petition No. 1089 of 1993

Prashant Shamrao Dakhole

APPELLANT

Vs

State Of Maharashtra and Others

RESPONDENT

Date of Decision : 03-08-1994

Acts Referred:

Constitution of India, 1950 — Article 14, 309

Citation : (1994) 08 BOM CK 0046

Hon'ble Judges : L. Manoharan, J; Dhabe, J

Bench : Division Bench

Judgement

H.W. Dhabe, J.—The grievance of the petitioner in this writ petition is that the Government Resolution dated 5th March 1992 by which the State Government has revised the stipend only of the House Officers and Registrars working in the Government Colleges and Hospitals is arbitrary, discriminatory and is violative of Article 14 of the Constitution. The petitioner is working as Registrar in the hospital attached to the respondent No. 4-Ayurved Mahavidyalaya which is given grant-in-aid by the State Government. The Government bears cent per cent expenditure upon the salaries of the staff as well as upon the stipend to be paid to the interneers, House Officers and Registrars, i.e., the Residents.

2. As regards the stipend paid to the Residents, the State Government had by its Resolution dated 20th December 1988, fixed the stipend for all the residents including the interneers working in the hospitals attached to the Government Ayurvedic College as well as the hospitals attached to the private grant-in-aid Ayurvedic and Unani Colleges with effect from 1-4-1987. The State Government thereafter revised the said stipend by its Resolution dated 29th March 1990 for the Residents and Registrars working in the Hospitals attached to the Government Ayurvedic Colleges as well as the private grant-in-aid Ayurvedic Colleges.

3. It is pertinent to see that by the above Government Resolutions the revision was effected in the stipend of the Residents working in the hospitals attached to

the Government Ayurvedic Colleges as well as those working in the hospitals attached to the private grant-in-aid Ayurvedic Colleges. However, by the Government Resolution dated 5th March 1992, the Government revised the stipend of the Residents working in the hospitals attached to the Government Ayurvedic Colleges and Mahatma Gandhi Smriti Hospital run under Stage Labour Insurance Scheme only. The petitioner therefore made a representation to the Government that since the terms and conditions offered to the Residents in the private grant-in-aid colleges are the same as those offered to the Residents working in the hospitals attached to the Government colleges there should not be any discrimination in payment of stipend to them and thus they should also be given the same revision which is made in respect of the Residents working in the hospitals attached to the Government Ayurvedic Colleges. Since the Government did not accede to the request made by the petitioner, the petitioner has preferred the instant writ petition.

4. It is not in dispute that the respondent No. 4 - Ayurvedic college and hospital attached to it is a grant-in-aid college to which cent per cent grant upon the salaries of the teachers and stipend of the Residents including the interneers is given by the Government. It is further material to see that the terms and conditions of the Residents working in the hospitals attached to the Government Ayurvedic colleges as well as those working in the grant-in-aid colleges are the same and are determined by the State Government. The learned counsel for the petitioner has brought to our notice the Rules framed by the State Government in respect of the Housemen and Registrars, i.e., the Residents, framed under Article 309 of the Constitution of India. Perusal of the said Rules would show that although they are the draft rules, according to the covering letter dated 22-6-1993 issued by the Government to the respondent No. 4, the said rules are to be made applicable by the grant-in-aid colleges in anticipation of the approval to be granted by the Government to the said Rules.

5. Perusal of the said Rule would show that the Rules are common for the Residents working in the hospitals attached to the Government Ayurvedic Colleges as well as the private grant-in-aid colleges. Clause 9 of the said Rules provides that the Residents would be granted stipend as may be determined by the Government from time to time for performance of their duties. Even otherwise also, as hereinbefore shown, the terms and conditions offered to the Residents of the hospitals attached to the Government Ayurvedic Colleges as well as private grant-in-aid colleges were the same and were determined for both by the State Government. This is clear from the fact that by the earlier notifications issued by it the State Government had itself fixed common stipend for the Residents working in the hospitals attached to the Government Ayurvedic Colleges as well as the private grant-in-aid colleges. There is, therefore, no reason why the Government should not have paid the same stipend to the Residents working in the hospitals attached to the private grant-in-aid colleges while revising the same for the Residents working in the hospitals attached to the Government Ayurvedic Colleges as per its notification dated 5.3.1992.

6. The learned Assistant Government Pleader appearing on behalf of the respondents has not been able to show as to why the Residents working in the hospitals attached to the private grant-in-aid colleges are excluded from the revision of stipend in the notification dated 5-3-1992. The action of the State Government is not revising the stipend in respect of the Residents of the hospitals attached to the private grant-in-aid colleges while revising the same for the Residents working in the hospitals attached to the Government Ayurvedic Colleges is therefore arbitrary, discriminatory and is therefore liable to be struck down as being violating of Article 14 of the Constitution. The Government ought to have paid uniform stipend to the Residents whether working in the hospitals attached to the Government Ayurvedic Colleges or working in the hospitals attached to the private Ayurvedic Colleges when it regulates the terms and conditions of both and bears the cent per cent expenditure upon the stipend paid to the Residents of the private grant-in-aid colleges as also the Residents in its hospitals attached to its own colleges. It is, therefore, necessary to direct the State Government to apply the Government Resolution dated 5-3-1992 to the Residents working in the hospital attached to the grant-in-aid Ayurvedic Colleges also.

7. In the result, the instant writ petition is allowed. The State Government is directed to apply the Government Resolution dated 5-3-1992 to the Residents, i.e., the House Officers and Registrars etc., working in the private grant-in-aid Ayurvedic colleges also with effect from the date from which the said revision is made applicable to the Residents working in the hospitals attached to the Government Ayurvedic Colleges, i.e., from 1-1-1992. Rule in the above terms. No costs.