
(1997) 11 P&H CK 0101
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 925 of 1982

Rachhpal Singh and Others	Vs	APPELLANT
The State of Punjab and Another		RESPONDENT

Date of Decision : 05-11-1997

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Civil Services Rules — Rule 21

Citation : (1998) 118 PLR 635

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : Ashish Grover, for the Appellant; G.S. Grewal, A.G. and H.S. Gill, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

H.S. Bedi, J.—The petitioners after having obtaining diplomas either in Civil, Mechanical or Electrical Engineering were selected and appointed as Drawing Instructors/Demonstrators in the Department of Technical Education between the years 1962 and 1965. In order to meet the requirement of proper technical education, the Ministry of Education, Government of India, established four Regional Institutes for the training of technical teachers. The Technical Teachers Training Institute, Chandigarh, was one of the four designed to meet this requirement in the Northern Region covering the area from Jammu and Kashmir to the State of Uttar Pradesh. This institute was established in the year 1967 and the first batch of trainees was admitted to the course on September 11, 1967. The petitioners being duly qualified were selected and sponsored by the State of Punjab for the said diploma course and they were deputed to undergo training for various courses for the years 1967 to 1970. A copy of one of the letters dated October 4, 1967 issued by the State Government with regard to the selection of the persons mentioned therein has been appended as Annexure P.1 to the petition. Vide Annexure P.1 it was provided that the selected candidates would be paid subsistence allowance of 50 per cent of their total emoluments whereas the

remaining 50 per cent was to be paid as a stipend to the trainees subject to a limit of Rs. 400/- in the case of decree holders and Rs. 250/- in the case of diploma holders during the course of the training. As this condition entailed a considerable financial burden on the petitioners, they represented to the Department against the reduction in their emoluments. The matter was examined by the State Government and ultimately vide orders dated June 12, 1970 (Annexure P.2) the government accorded sanction directing that the petitioners and others similarly situated trainees would be treated as on duty for the duration of the training period. A subsequent order dated July 16, 1971 (Annexure P.3) pertaining to the sponsored teachers undergoing training at Technical Teachers Training Institute, Chandigarh was also issued. It appears, however, that despite a clear stipulation in Annexure P.2 there were yet various administrative difficulties in the payment of emoluments to the petitioners with the result that there was a substantial delay in the payments. The order Annexure P.2 was, however, withdrawn without any notice vide Annexure P.5 dated 21.2.1978 and it was further directed by this order that the recovery of the excess payments made to the technical teachers who had undergone training prior to 1970 on account of treating the training period as on duty, be made. The petitioners, however, represented against this order vide Annexure P.6 but vide Annexure P.7 dated 29th December, 1981, the representation was rejected and it was reiterated that the recovery be made from the teachers covered by Annexure P.5. Annexures P.5 and P.7 have been impugned in the present petition.

2. Notice of motion was issued on March 1, 1982 and it was ordered that the recovery be stayed till further orders. The petition was ultimately admitted on 30th April, 1982 and the stay was directed to continue, with the result that no recovery has so far been effected from the petitioners.

3. A reply has also been filed by the respondents and it has been averred that the matter with regard to study leave was governed by the terms and conditions contained in the Study Leave Rules, 1963 given in Appendix 20 to the Punjab Civil Services Volume-I, Part-II and Rule 21 of the said Rules provided that the study leave would be counted as service for promotion, pension and seniority and also for increment. It has further been stated in para 6 of the reply that the petitioners had been given to understand vide Annexure P.1 that they would be paid sums mentioned therein and, as such, they could not now claim any higher amounts.

4. Mr. Ashish Grover, the learned counsel for the petitioners, has" argued that although the matter was not governed by the Rules quoted by the respondents in then-reply yet without going into the merits of the controversy it would be clear that the order Annexure P.5 which had taken away a valuable right conferred on the petitioners by Annexure P.2 had been passed without any opportunity having been granted to them and as admittedly the trainees after 1971 had been getting the full emoluments during the period of their study leave, there was no justifiable reason as to why the petitioners should be prejudicially placed.

5. As against this Mr. Gill the learned State counsel has pointed out that the petitioners had accepted their study leave and training period in terms of the conditions laid down in Annexure P.1 and they could not now claim a deviation from these conditions as a matter of right.

6. I have considered the arguments of the learned counsel for the parties and find that this petition deserves to succeed. It is true that Annexure P.1 did lay down certain conditions under which the petitioners had agreed to undergo their training. It is, however, equally true that the State Government itself had, in the case of the petitioners, taken a conscious decision to pay them their full emoluments during the training period. I am, therefore, of the opinion that the order Annexure P.2 having conferred a valuable right on the petitioners could not be withdrawn without any notice having been given to them, the more so, as the admitted position is that those trainees who have undergone the course subsequently have been given full emoluments. I am also quite conscious of the fact that the petitioners who had joined service in between 1962 and 1966 would by virtue of the passage of time, have retired or be at the fag end of their tenures and it would be wholly inequitable to make any recovery from them at this state.

7. For the reasons recorded above, this petition is allowed and the orders Annexures P.5 and P.7 are accordingly quashed. There will be no order as to costs.