

(2013) 08 MP CK 0284
In the Madhya Pradesh High Court
Case No : Writ Petition No. 44 of 2013

Rajnish Kumar Pandey

APPELLANT

Vs

Awadhesh Pratap Singh University and Another

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : (2013) 08 MP CK 0284

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Sanjay K. Agrawal, for the Appellant; Ravendra Tiwari, Learned Counsel for Respondents No. 1 and 2, for the Respondent

Final Decision : Disposed Off

Judgement

K.K. Trivedi, J.—The grievance of the petitioner is that even after passing a resolution by the Executive Council of the Awadhesh Pratap Singh University, Rewa (hereinafter referred to as University for brevity) as back as on 19.1.2009 to extend the benefit of pay scale of Rs. 6500-10500/- to the petitioner, no orders are issued by the respondent-University in that respect, therefore, the petitioner is required to approach this Court by way of filing the writ petition. It is contended that the petitioner is working on the post of Training and Placement Officer in MBA department of respondent-University. On 9.8.1994, the University Grants Commission (hereinafter referred to as UGC for short) granted sanction to the respondent-University to start MBA Degree Programme in its curriculum. The UGC has sanctioned to bear 20% of notional expenditure incurred for teaching faculty towards non-academic staff. The State Government also accorded its consent to bear certain expenses to be incurred by the respondent-University for induction of MBA degree course. The list was supplied by the respondent-University indicating recruitment of persons like petitioner in the said department. The petitioner was confirmed on the post after his appointment. Though initially he was appointed on a fixed salary, but later on, when he represented for grant of regular pay scale, the matter was referred before the

State Government. Certain clarification was sought by the State and the discrimination met to the petitioner was brought to the notice. It was ultimately informed by the respondent-University that the petitioner would be entitled to grant of pay scale of Rs. 6500-10500/- with effect from 1.12.1999. A sanction was granted in this respect and, therefore, matter was referred to the Executive Committee of the respondent-University. The said Committee resolved to grant the benefit of pay scale to the petitioner vide its resolution dated 29.1.2009. The matter was placed before the Scrutiny Committee which again examined the case of the petitioner and resolved that the petitioner was entitled to grant of regular pay scale in terms of the resolution of the Executive Committee of the respondent-University. However, instead of giving the said benefit to the petitioner, matter was referred to the State Government for grant of No Objection Certificate by the respondent-University. The State Government has taken it seriously and has stated that once the matter was already resolved, why the action was not taken in that respect within time and why after such a long time, the matter has been sent to the State Government. Ultimately, again a resolution is passed by the Executive Council of the respondent-University and it has been resolved that the petitioner be granted the benefit of pay scale, but since nothing is being done by the respondents, this writ petition is required to be filed. Upon service of the notices of the writ petition, the respondents have filed a return and it is contended by them that since the State Government has not granted the no objection certificate, the petitioner could not be granted the benefit of pay scale. It is contended that the matter was referred to the Chancellor of the respondent-University and from the office of the Chancellor, it is informed to all Vice Chancellors that action is to be taken to grant sanction of the pay scale only after obtaining approval from the State Government. This being so, it is contended that unless the approval is granted by the State Government, the resolution passed by the Executive Council of respondent-University is not to be implemented.

2. A rejoinder has been filed making allegation that it is nothing but a lame excuse taken by the respondents, whereas, there is nothing in the order of the Chancellor restraining the action to be taken by the respondent-University on the resolution of the Executive Council. It is contended that such a stand taken by the respondents is wholly misconceived and the petitioner is entitled to the reliefs claimed.

3. After hearing learned counsel for the parties at length and after perusing the record, it is clear that the order dated 20.1.2012 said to be issued by the office of the Chancellor of the respondent-University is misconstrued by the respondents. In Clause-IV of this order what is restricted is that in case any action is required to be taken on the recommendation of the Executive Council or Management Board of the respondent-University, which action is de hors the Rules of the State Government then before implementing such decision, the sanction from the Administrative Department of Government of Madhya Pradesh be obtained. It is to be seen that UGC has recommended the pay scale which

recommendations have been duly accepted by all State Government as the same have been duly approved by the Central Government. If a pay scale is prescribed by the UGC, that has to be granted to the employee concerned, holding the post substantively. For the said purposes if the resolution is passed by the Executive Council, it cannot be said that the said resolution is de hors the Rules or instructions of the State Government. This being so, the entire stand taken by the respondents is misconceived. The action is to be taken by the respondents pursuant to the recommendations made by the UGC and, therefore, if the Executive Council of the respondent-University has passed a resolution in this respect, it cannot be said that the resolution amounts to violative of any instructions of the State Government. This being so, the respondents are bound to comply with the resolution of the Executive Council. The State Government has not stated anything in its correspondence that the resolution of the Executive Council or decision taken therein is contrary to any Rule of the State Government. Further, the State Government has made it clear that all financial burden are to be born by the respondent-University and nothing is to be paid by the Government. If this was accepted and a resolution is passed by the Executive Council of University, no objection certificate from the State Government is non required. Therefore, the respondents cannot withhold action on the resolution of the Executive Council of the respondent-University.

4. Accordingly, the writ petition is disposed of with a direction to the respondents to act on the resolution passed by the Executive Council of the respondent-University within a period of three months from the date of receipt of copy of this order. The benefit as accrued to the petitioner be granted to him within the aforesaid period. The writ petition stands finally disposed of. The parties shall bear their own costs.