
(2009) 05 GUJ CK 0037

In the Gujarat High Court

Case No : Special Civil Application No. 6416 of 1992

Ranjanben Vithalbhai Patel and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 14-05-2009

Acts Referred:

Citation : (2009) 05 GUJ CK 0037

Hon'ble Judges : Jayant M. Patel, J

Bench : Single Bench

Advocate : Shailesh C. Parikh, for Petitioners 1, 1.2.1, 1.2.2, 1.2.3 and 1.2.4-9, for the Appellant; K.P. Raval, AGP for Respondent 1 and S.N. Shelat, for Respondent 2, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—As in both the petitions, the facts are interconnected, they are being considered by this common judgement.

2. The short facts of the case appear to be that the petitioners are appointed in the set up of Gujarat Agricultural University, the respondent No. 2

herein. The details of the appointment orders, post, qualification held by the them, are mentioned in the statement produced at Annexure-A. It

further appears that when the petitioners were appointed, they were in the pay-scale of Rs. 325-575 since the pay-scale was prevailing then.

Thereafter, on 05.03.1979, based on the recommendation of University Grants Commission (hereinafter referred to as ""UGC""), the Government

decided to revise the pay-scale of the Instructor, Lecturer-equivalent from Rs. 300-600 to Rs. 700-1600. It appears that there was no clarity

about the effect to be given to the lecturers appointed during a particular period or not and therefore, various representations were made and the

Committees were appointed and ultimately, it was recommended to give benefit to the persons who were on the cadre from 01.04.1973 to

21.02.1977. The petitioners were not granted benefit and therefore, they made the representation, but no decision was taken. Therefore, the

petitioners of Special Civil Application No. 6416/92 together with the other persons preferred Special Civil Application No. 8709/89 before this

Court and this Court vide order dated 30.07.1990, directed the appropriate authority to take decision upon the representation of the petitioners.

No action was taken and it appears that in the meantime, the respondent No. 2 University considered the matter and found that the case of the

petitioners deserves to be considered for revision of pay-scale and therefore also, moved the proposal to the State Government for grant of

sanction to confer revised pay-scale to the petitioners for the relevant period. However, there were some correspondences. In any case, the

decision was not taken. At that stage, the petitioners have approached to this Court by the present petition.

3. Heard Mr. Parikh for the petitioners. Mr. Gaekwad for Mr. Shelat for respondent No. 2 University and Mr. Raval, learned AGP for the State.

4. It appears that the University who is the appointing authority of the petitioners has not denied the factual aspects of the appointment of the

petitioners on the regular post and the pay-scale in which the petitioners were appointed and the entitlement of the petitioners for revision of the

pay-scale. At page 153 of Special Civil Application No. 6416/92, at para 3, it has been stated by the University as under:

I say that the present petitioners had instituted Spl. C.A. No. 8709 of 1989. The Gujarat High Court has directed that the petitioners should make

representation for applicability of the U.G.C. Pay scale to the Gujarat Agricultural University teachers, inter alia contending that the petitioners

were teachers of the Gujarat Agricultural University. University had sent its representations to the State of Gujarat requesting the State Government

to take positive decision in favour of the petitioners and grant the benefit of revised pay scale of Rs. 700-1600 to those of the petitioners who were

appointed as Agricultural Officers or its equivalent rank during the period of 1st January 1973 but prior to the Govt. Resolution dated 21st

February 1977 as their appointment was in accordance with the requirement of the Rules of the University. The State Government by its letter

dated 22nd March 1991 took the decision to the effect that those of the employees working between 1974 to 1979 who are satisfying the U.G.C.

Requirements and who have undertaken teaching work at the Degree College would be entitled to the benefit thereof. Annexed hereto and marked

as Exh.B is a copy of the communication dated 22nd March, 1991. On the basis of the said decision, the Director of Campus was directed to

comply with the decision of the State Government. The University had also again taken up with the State Government to grant the benefit of

U.G.C. Pay scale in respect of those teaching Assistants who are treated to be Teachers under the provisions of the Act irrespective of the fact

they are working at Degree College or not. Under the provisions of Section 2(17) of the Act, Agricultural Research Officers are Teachers and

therefore, are entitled to the benefit of the scale of pay available to the teachers under the recommendation of the U.G.C. which have been

approved by the State Government. It is therefore necessary that this Hon'ble Court may direct the State Government to take appropriate

decision in the context of the recommendations made by the University.

5. The aforesaid stand taken by the University in the affidavit-in-reply fully supports the case of the petitioners on two aspects; one is that the

petitioners fall in the category of teacher and their pay-scale in view of the policy decision of the State Government for revised pay-scale from Rs.

300-600 to Rs. 700-1600, the petitioners pay-scale also requires to be revised. Therefore, the University had also accepted the claim of the

petitioners for revision and after having accepted the claim since the sanction of the State Government is required, the proposal is moved to the

State Government with the recommendation of the University.

6. In addition to the above, the following aspects which has remained uncontroverted, strengthens the case of the petitioners for revision of the

pay-scale:

The Indian Council of Agricultural Research as per the letter dated June 28 July 1977 (Annexure-U) has communicated to the Agricultural

Produce and Commissioner of Jaipur that the Council makes no distinction between the academic, research and the extension in the Agricultural

University and the benefit of the revision of pay-scale are to be extended to Research/Extension Assistants in the revised pay-scale of Rs. 700-

1600. Even in the correspondence dated 04.08.1997 (Annexure-III page 102 of the compilation) of Indian Council of Agricultural Research, the

Registrar of Gujarat Agricultural University at Dantivada has been communicated that all such academic posts of teachers are defined in the

University Act including those on the Research/Extension side, with the University on 01.01.1973 are entitled to receive ICR Assistance during the

5th plan.

7. Such benefit of revision of pay-scale as per the UGC pattern have been granted by the Punjab Agricultural University at Ludhiana vide

Notification dated 26.05.1976, Andhra Pradesh Agricultural University vide Order dated 25.01.1980, Hariyana Agricultural University vide order

dated 18.09.1980 and the copy of the aforesaid notification and orders are also produced by the petitioners at Annexure-X Colly.

8. It also appears that whether the person like petitioners who are appointed on the cadre of Research Assistant with the Agricultural University

were entitled to the revision of pay-scale from Rs. 300-600 to Rs. 700-1600 as per the recommendation of UGC or not, had come for

consideration before the High Court of Rajasthan in S.B. Civil Writ Petition No. 39/79 and ultimately vide Judgement dated 22.04.1981, the High

Court of Rajasthan has found that the benefit of revision of pay-scale of Rs. 700-1600 deserves to be granted and the petition was allowed. The

copy of the judgement of Rajasthan High Court is produced by the petitioners at Annexure-Y (1). Not only that, but thereafter, the SLP against

the aforesaid decision of the Rajasthan High Court is stated to have been preferred, which has been dismissed on 06.09.1982 by the Apex Court

in the proceedings of Special Leave to Appeal (Civil) No. 1732/82 and the copy of the order is produced at Annexure Y(2). It is also stated that

thereafter, the review against the decision of the Rajasthan High Court has also been dismissed vide order dated 16.08.1982. Not only that, but

based on the decision of the Rajasthan High Court, the other similarly stated persons have also claimed the benefit. Therefore, based on the order

dated 22.04.1981 of the Rajasthan High Court in S.B. Civil Writ Petition No. 39/79, the other similarly situated persons had preferred petition

before the Rajasthan High Court being Writ Petition No. 487/82 and the similar benefits have been conferred and the said decision of the

Rajasthan High Court has been complied with by the concerned Agricultural University at Rajasthan.

9. The aforesaid shows that the claim of the petitioners has been found eligible for revision of the pay-scale by the Gujarat University and on the

aspects of judicial scrutiny also, the High Court of Rajasthan has ruled that the Research Assistant appointed in the Agricultural University during

the relevant period would be entitled to the revision of the pay-scale.

10. Nothing is brought to the notice of this Court by the learned AGP, which may require this Court to take a different view than the view taken by

the High Court of Rajasthan on the same issue.

11. Under these circumstances, it does appear that the respondent No. 2 University has found that the petitioners are entitled for revision of pay-

scale, as per the UGC recommendation and when the question is concluded upon the judicial scrutiny by the High Court of Rajasthan on the same

issue, it was required for the State Government to positively consider the matter and to take decision. Unfortunately, neither the decision is taken

nor after filing of the present petition, any material, is produced on behalf of the State Government which may require this Court to take a different

view.

12. Under these circumstances, the action on the part of the State Government in not taking any decision, for the entitlement of the petitioners for

revision of the pay-scale, cannot be sustained and such action on the face of it would be rendered arbitrary.

13. Therefore, the State Government, respondent No. 1 herein, would be required to consider the case of the petitioners who are similarly situated

for revision of pay-scale from Rs. 300-600 to Rs. 700-1600 for according the sanction to the respondent No. 2 University as per its proposal

referred to in the affidavit-in-reply. The aforesaid exercise shall be undertaken and completed within the period of three months from the receipt of

the order of this Court by the concerned Secretary of the State Government. It is further observed and directed that while taking decision, the

observations made hereinabove shall be taken into consideration and the decision shall be taken in accordance with law.

14. Petitions are allowed to the aforesaid extent. Rule made absolute accordingly. No order as to costs.