

(2014) 11 P&H CK 0156
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 535 of 2013 (O&M)

Sardool Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 20-11-2014

Acts Referred:

Citation : (2015) 1 SCT 134

Hon'ble Judges : Satish Kumar Mittal, J;Deepak Sibal, J

Bench : Division Bench

Advocate : J.P.S. Sandhu, Advocates for the Appellant; Gaurav Garg Dhuriwala, D.A.G, Advocates for the Respondent

Judgement

Deepak Sibal, J.—The present intra-Court appeal filed under Clause X of the Letters Patent challenges the order dated 23.09.2011 passed in CWP No. 18781 of 1991 and order dated 23.11.2012 passed in review application No. 294 of 2012 in CWP No. 18781 of 1991 by a learned Single Judge of this Court through which the writ petition and the review application preferred by the appellants were dismissed. Shorn of unnecessary details, the issue that arises in the present appeal is whether the appellants, who were working as Assistant Editors in the Punjab State University Text Book Board, Chandigarh, are entitled to the same pay scales as being granted to Lecturers working in the Punjab University, Chandigarh. The learned Single Judge of this Court went through this issue and dismissed the writ petition filed by the appellants while holding that the nature of duties of the appellants vis-a-vis Lecturers were entirely different. The learned Single Judge further went on to hold that the claim of the appellants for equating pay scales, was primarily the job of experts like Pay Commissions, Anomaly Committees etc. and better left to them. It was further held that merely because that at an earlier point of time both the posts were placed in the same scale, would not clothe the appellants with an indefeasible right to claim equal scales for all times to come. Accordingly, vide order dated 23.09.2011, the writ petition filed by the appellants was dismissed.

2. When the above referred order was passed, there was no representation on behalf of the appellants. The above order was challenged by the appellants by way of an Letters Patent Appeal bearing LPA No. 127 of 2012, in which the following order was passed:-

"This Letters Patent Appeal has been filed by the appellants who were petitioners in Civil Writ Petition No. 18781 of 1991 which was dismissed along with Civil Writ Petition No. 19127 of 1991. It is fact that when the writ petition was disposed of along with other writ petition counsel for the appellants was not present and therefore, in his absence the writ petition was disposed of in terms of the decision given in CWP No. 19127 of 1991.

From the reading of the writ petition it appears that the case of the appellants is entirely different than the petitioners of Civil Writ Petition No. 19127 of 1991. In that situation we permit the appellants to move an application before the learned Single Judge, for recalling the order in his writ petition and dispose of the same after providing an opportunity of hearing.

Dismissed as withdrawn with the aforesaid liberty."

3. Thereafter, the appellants filed CM No. 6327 of 2012 in CWP No. 18781 of 1991 for recalling the order passed in the writ petition, in which the learned Single Judge passed the following order:-

"Counsel seeks permission to withdraw this application to file a review application as the writ petition was decided on merits. Application is dismissed as withdrawn with liberty to file a review application."

4. In view of the order reproduced above, the appellants then filed review application No. 294 of 2012 in CWP No. 18781 of 1991 which was also dismissed by holding as under:-

"Learned counsel for the petitioner has referred to Annexure P-4 which is the entire basis of his claim as is also stated by him. The whole grievance of the petitioners is that they were working as Assistant Editors and they have been equated with Professor/Lecturers/Readers, so far the pay scale was concerned. The claim made in the petition is duly noticed in the impugned order and is as under:

CWP No. 18781 of 1991 against the same relief was filed by three petitioners, who were working as Assistant Editors with the respondent-Board. They claim that they be treated at par with scale of Lecturers working in the Punjab University. On this basis, they had made a claim for grant of pay scale of Rs. 700-1600, which has been allowed to college Lecturers w.e.f. 01.01.1973. It is claimed that all the Lecturers in the Punjab University have been allowed this scale and the governing body of the Board had also probably agreed that the Assistant Editor be granted pay scale granted to the Lecturers by the University Grant Commission. This scale was allowed to the petitioner w.e.f. 01.01.1978 and they were fixed in the scale vide order dated 26.02.1980. The UGC had

made recommendation for further revision of pay scales of the Punjab University and thereafter reference is made to decision dated 18.07.1988 where the governing body took a decision to grant pay scale to the academic staff of respondent No. 2 w.e.f. 01.01.1986. The petitioners have, accordingly, filed this writ petition to claim pay parity with the Lecturers.

The claim on behalf of the respondents is also recorded and is as under:-

In addition, the respondents appearing in CWP No. 18781 of 1991 would point out that the petitioners, who were working as Editors cannot make any claim for being equated with the post of Lecturers. Duties and the responsibilities of the posts are entirely difference and by no stretch of imagination these posts can be equated.

Thereafter, the Court discussed the legal position on the basis of various judgments passed by Hon"ble Supreme Court. The principle of law which would emerge from these judgments is also noticed in the order. The Court expressed his inability to grant the prayer made by the petitioners primarily on the ground that it was not the responsibility of the Court to equate the two posts either on the basis of "Equal Pay for Equal Work" or on the ground that the post has been equated at one time an, therefore, it is to be equated at all times to come. The responsibility of the Pay Commission in this regard is duly noticed and as per the law laid down once the post is equated, it does not mean that it should always be equated. It is on this basis, claim of the petitioners was not found made out. If the petitioners have any grievance against the view so formed, appropriate remedy for them is to appeal against this order. No case for recall of the order is made out. The application is, accordingly, dismissed."

Aggrieved by the above orders passed by the learned Single Judge, the present appeal has been preferred.

5. Learned counsel appearing for the appellants has submitted that the Lecturers of the Punjab University and the appellants had been placed in the same pay scale for several years in the past and therefore, there was no justification to now distinguish both the categories in terms of their pay scales. Learned counsel relied on Annexure P-4, a decision dated 08.07.1988 taken by the Governing Body of the Punjab State University Text Book Board, Chandigarh, wherein it had been decided that equal pay scales be granted to the appellants and the Lecturers of the University.

6. We have heard the learned counsel for the parties and with their able assistance, have gone through the record of the case.

7. There can be no dispute with the fact that the nature of duties of Assistant Editors and Lecturers are very distinct. While the post of Lecturers is a teaching post, the post of Assistant Editors is a nonteaching post. Reliance placed by the appellants on the decision of the Governing Body of the Punjab State University Text Book Board, Chandigarh, dated 08.07.1988 (Annexure P-4), is misplaced.

As per the stand taken by the respondents, as per instructions dated 29.05.1970 issued by the Finance Department, the decision of the Governing Body of the Punjab State University Text Book Board, Chandigarh, dated 08.07.1988 (Annexure P-4) required approval of the State Government from the Finance Department. The appellants do not controvert this stand. Admittedly, no such approval was taken. Thus, a unilateral decision taken by the Governing Body of the Punjab State University Text Book Board, Chandigarh, without approval of the State Government and against the instructions issued by the Finance Department, cannot be allowed to be foisted on the Government. Even otherwise, it is settled law that equation of posts for the purpose of grant of equal pay scales is better left to the experts like the Pay Commission Anomaly Committees etc. It is not proper for the Courts to step into this field. Still further, the qualifications and nature of duties of the posts of Assistant Editors and Lecturers being quite distinct, the principle of "equal pay for equal work" cannot be extended to the appellants. In view of the above, finding no merit in the present appeal, the same is dismissed but with no order as to costs.