
(2014) 10 P&H CK 0045
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 8676 of 1999

Satwanti Arya

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Citation : (2015) 1 SCT 154

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : R.K. Malik, Senior Advocate and Ramandeep Singh, Advocates for the Appellant; S.S. Goripuria, DAG, Advocates for the Respondent

Judgement

Rameshwar Singh Malik, J.—Feeling aggrieved against the order dated 22.4.1999 (Annexure P-12), whereby regular pay scale for the post of Sanskrit teacher was denied to the petitioner, with effect from the date petitioner acquired the qualification of B.Ed., petitioner has approached this court by way of present writ petition. Notice of motion was issued and pursuant thereto, written statement was filed on behalf of the respondents.

2. Learned Senior counsel for the petitioner submits that the petitioner was appointed as Sanskrit teacher on regular basis by respondent No. 4, after following the due procedure, but as an untrained teacher. Petitioner was granted fixed salary. While serving with respondent No. 4, petitioner acquired the qualification of B.Ed. as well, with effect from 25.7.1973. Petitioner was already M.A. Sanskrit. Learned Senior counsel for the petitioner further submits that after acquiring the qualification of M.A. Sanskrit and B.Ed., with effect from 25.7.1973, petitioner had become fully eligible for the post of Sanskrit teacher and she was entitled for the regular pay scale with effect from 25.7.1973. When respondent No. 4 recommended the case of the petitioner to the higher authorities, respondent No. 2 issued the communication dated 10.6.1981, whereby appointment of the petitioner as Sanskrit teacher was regularised with effect from 28.7.1980, granting her regular pay scale. However, question of

granting regular pay scale from the back date i.e. 25.7.1973 was kept under consideration and it was intimated that appropriate action will be intimated later on. But, respondent No. 2, after keeping the matter pending for long 18 years, issued the impugned order dated 22.4.1999, which was non-speaking and cryptic on the face of it. Learned Senior counsel for the petitioner would next contend that since the qualification of M.A. Sanskrit and B.Ed. was higher than the minimum required qualification of Shastri and O.T., petitioner was very much competent and entitled for the regular pay scale of the post of Sanskrit teacher right from 25.7.1973. Since this aspect of the matter has neither been discussed nor discarded, but altogether ignored by respondent No. 2, while passing the impugned communication dated 22.4.1999 (Annexure P-2), the same was not sustainable in law. Relying upon two judgments of this court in Veena Jain v. State of Haryana, 1998(1) SCT 41 and a Division Bench judgment dated 21.12.2007 in CWP No. 10926 of 2007 (Ashok Kumar and others v. State of Haryana and others), he prays for allowing the present writ petition, by setting aside the impugned order.

3. Faced with the abovesaid fact situation pointed out by learned Senior counsel for the petitioner, learned counsel for the State could not deny the correctness thereof and rightly so, because it was a matter of record. Despite his efforts, learned counsel for the State could not distinguish the present case from the reported judgments of this court in Veena Jain's case (supra) as well as in Ashok Kumar's case (supra). However, he prays for dismissal of the writ petition.

4. Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that keeping in view the peculiar facts and circumstances of the present case, instant writ petition deserves to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

5. The material facts of the case noticed herein above are not in dispute. It is a matter of record and not in dispute that the petitioner acquired the qualification of B.Ed. with effect from 25.7.1973 and she was already M.A. Sanskrit. When the case of the petitioner was recommended by the respondent-school, respondent No. 2 issued communication dated 10.6.1981 (Annexure P-3) and the relevant part thereof, reads as under:--

"Sub: Mrs. Satwanti Arya, Sanskrit Teacher, Arya Girls High School, Sonapat.

In reference to your letter 1.81/590 dated 22.4.81.

The services of Mrs. Satwanti Arya Sanskrit teacher, Arya Girls High School, Sonapat, has been regularised w.e.f. 28.7.80. So, she will be entitled for regular pay scale w.e.f. 28.7.80. As far as the question of giving regular pay scale from the back date the matter is under consideration of Haryana Govt. and the necessary action will be taken after the decision.

Sd/- Director, Haryana Education Chandigarh."

6. After keeping the matter pending for unreasonably long period of about 18 years, respondent No. 2 issued the impugned communication dated 22.4.1999 (Annexure P-12). A bare perusal of the impugned order would show that it was non-speaking and cryptic one, relevant part of which reads as under:--

"Sub :Regarding regularisation of services of Smt. Satwanti Arya, Sanskrit teacher, Arya Girls High School, Sonapat.

On the above mentioned subject Govt. has decided to file the above said case.

Applicant be informed.

Sd/- Assistant Director, Examination for Director Secondary Education, Haryana, Chandigarh."

7. In the meantime, exactly similar controversy fell for consideration of this court in Veena Jain's case (supra) and the same was answered in favour of the petitioner. Relevant observations made by this court in paras 4 and 6 of the judgment in Veena Jain's case (supra), which can be gainfully followed in the present case, read as under:--

"During the pendency of the writ petition, petitioner filed Civil Misc. No. 20335 of 1997, wherein she has averred that the Haryana Government has obtained report of Expert- Committee to the effect whether a person possessing the qualification of M.A. in Sanskrit and B.Ed. is qualified for the post of Sanskrit Teacher or not. The Expert-committee gave its opinion that a candidate possessing M.A. in Sanskrit and B.Ed. qualification is better than Shastri and O.T. in all respects. This report of the Expert-Committee was duly accepted by the Government of Haryana and the candidates possessing the qualification of M.A. in Sanskrit and B.Ed. were duly considered as qualified for the post of Sanskrit Teacher. The decision to this effect is at Annexure P-8. A candidate possessing qualification of B.A. with Sanskrit and B.Ed. was ignored for regularisation with effect from January 1, 1980, on the ground that she was not qualified for the post of Sanskrit teacher. That candidate filed civil writ petition No. 5470 of 1982, which was allowed by a Single Judge of this court vide judgment Annexure P-9. Hence, the petitioner prays that in view of that judgment, her writ petition be also decided.

From the Expert-Committee's report, Annexure P-7, it is evident that a candidate having qualification of M.A. in Sanskrit and B.Ed. is better qualified for the post of Sanskrit Teacher than a candidate who is Shastri and O.T. The report of the Expert-committee is already accepted by the Haryana Government vide Annexure P-8. In the last but one para of letter, Annexure P-8, it is mentioned, "So far as the qualification for the post of Sanskrit Teachers are concerned, in this connection it is stated that apart from the above mentioned qualifications, if a candidate is in possession of the qualifications of Shastri, B.Ed., M.A. in Sanskrit, B.Ed. and has filed a court case and the court has rendered decision in

his favour and produced copy of decision, then he may also be treated as eligible for the post of Sanskrit teacher." In CWP No. 5470 of 1982, the report of the Expert-committee and the order passed by the Haryana Government were also placed on record and they were considered by the learned Single judge and he has observed as under:--

"The departmental committee having taken the view that the persons possessing the qualifications of B.A./B.Ed. with Sanskrit as one of the subjects during B.A. Classes are suitable for appointment as Sanskrit teachers and the department having accepted this recommendation, the petitioner is entitled to be considered for regularisation of her services. Even otherwise, even if there was some deficiency, she having worked for the last about 20 years cannot be said to be ineligible especially when it is not even alleged that she had not performed her duties satisfactorily."

In this case also, the petitioner has put in more than eleven years of unblemished service. She is an M.A. in Sanskrit and B.Ed. and is working as a Sanskrit Teacher for the last so many years. Thus, as per the Expert-committee's report, Annexure P-7, she is even better qualified teacher than a teacher with qualifications of Shastri and O.T.

Thus, taking the totality of circumstances into consideration, the respondent are hereby directed to consider the petitioner's claim for regularisation of her service as Sanskrit teacher in accordance with the Expert-committee's report, Annexure P-7 and Haryana Government's letter, Annexure P-8."

8. It is also an admitted fact between the parties that the judgment in Veena Jain's case (supra) has attained finality. Similarly, a number of writ petitions were decided by a Division Bench of this court, vide order dated 21.12.2007 along with Ashok Kumar's case (supra). The abovesaid view taken by this court in Veena Jain's case (supra) was reiterated in Ashok Kumar's case (supra) as well.

9. In view of the above, present writ petition has been found squarely covered by the judgment of this court in Veena Jain's case (supra). Although Veena Jain's case (supra) was decided on 11.9.1997 by this court, against this very respondent department, yet respondent No. 2 failed to take into consideration the said judgment, while issuing the impugned communication dated 22.4.1999 (Annexure P-12) and the same cannot be sustained, for this reason also.

No other argument was raised.

10. Considering the abovesaid peculiar facts and circumstances of the case, coupled with the reasons aforementioned, this court is of the considered view that the present case is squarely covered by the earlier judgment of this court in Veena Jain's case (supra). Accordingly, the impugned order dated 22.4.1999 (Annexure P-12) is hereby set aside.

11. Consequently, the petitioner is declared entitled for the regular pay scale for

the post of Sanskrit teacher with effect from 25.7.1973, when she acquired the qualification of M.A. Sanskrit and B.Ed. Respondents are directed to grant the consequential service benefits to the petitioner. Let the needful be done within a period of two months from today, failing which the petitioner shall be entitled for arrears of salary alongwith interest @ 9% p.a. from the date the amount became due, till the date of actual payment. Resultantly, with the abovesaid observations made and directions issued, the instant writ petition stands allowed, however, with no order as to costs.