
(2011) 09 RAJ CK 0084
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9213 of 2011

S.K. Acharya and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 20-09-2011

Acts Referred:

Citation : (2012) 2 RLW 1948

Hon'ble Judges : Munishwar Nath Bhandari, J

Bench : Single Bench

Advocate : Anurag Sharma and Saransh Saini, for the Appellant; Lokendra Singh Shekhawat for I.R. Saini, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Munishwar Nath Bhandari, J.—By these writ petitions, a direction has been sought for re-fixation of pension of the petitioners pursuant to the Memorandum dated 12th September, 2008. Learned counsel submits that all the petitioners retired from service while working on the post of Lecturer/Librarian. They were getting pension as per the pay scale from which they retired. The respondents implemented the recommendation of 6th Pay Commission and accordingly, revised the pay scale vide the Notification dated 12th October, 2009. As per the aforesaid Notification, those who were working in pay scale of Rs. 12000-18300 were to be fixed in running pay band of Rs. 15600-39100, if the lecturer/librarian in selection scale has not completed three years of service in the existing pay scale as on 1.1.2006. For those, who have completed three years of service in existing pay scale as on 1.1.2006 and onwards, were to be fixed in pay band of Rs. 37,400-67000. The respondents accordingly, were required to implement the Memorandum dated 12th September, 2008 for revision of the pension of pre. 1.9.2006 State Pensioners.

2. As per para 5 of the said Memorandum, the respondents were under an obligation to determine the pension of the petitioners, which should not be lower than 50% of the sum of the minimum pay of the post in the running pay band +

grade pay introduced w.e.f. 01st September, 2006 corresponding to the Pre Revised pay scale of the post from which pensioner had retired. As per the aforesaid Memorandum, petitioners, who have completed three years of service in the existing pay as on 1.1.2006 were to be given benefit of corresponding pay scale, which of Rs. 37,400-67000. As against the aforesaid, the petitioners have been given benefit of pay scale of Rs. 15600-39100, a reference of the Circular issued by the Government of India, Ministry of Human Resources Development dated 15th December, 2009 has been given to show that similar benefits have been given to the counter parts of the petitioners working in central universities and colleges. Now similar benefits have been given in various States also. Looking to the aforesaid, the respondents be directed to revise the pension of the petitioners by taking their corresponding pay scale of Rs. 37,400-67000.

3. The respondents came up with an order that revision of pension would be in pay and of Rs. 15600-39100, though subsequently, the Pension Department itself issued an order on 31st March, 2010 indicating that petitioners were entitled for pay band of Rs. 37400-67000. But the Finance Department is sitting tight over the matter, thus petitioners were left with no option but to file these writ petitions.

4. Learned counsel for the respondents, on the other hand submits that matter is under active consideration before the State Government pursuant to the letter of the Pension Department dated 31st March, 2010. It is, however, submitted that petitioners are not entitled for the benefit as claimed herein. The Memorandum dated 12th September, 2008 specifies for the benefit of corresponding pay scale as revised. In the present matters, revised pay scale of Rs. 12000-18300 is that of 15600-39100 and accordingly, petitioners have been given benefit of pension in the aforesaid pay scale. In view of the aforesaid, there is no illegality in implementing the Memorandum dated 12th September, 2008.

5. So far as the order dated 15th December, 2009 issued by the Government of India, Ministry of Human Resources Development is concerned, it is applicable to the lecturer working in the central universities/colleges. Looking to the aforesaid, the said Memorandum is not applicable to the petitioners. The petitioners are claiming pay band of Rs. 37400-67000, though they have not worked for three years as Lecturer (selection scale) at the time of revision in the pay scale. The benefit of revision of pay scale has been made admissible to those, who are in service. This is pursuant to Notification dated 12th October, 2009 bringing Rajasthan Civil Services (Revised Pay for Government College Teachers including Librarian and PTIs) Rules, 2009 (for short, "the Rules of 2009"). Even the aforesaid benefits are made admissible from 01st April, 2008, however, the petitioners are demanding benefit of revision of pension from the earlier date. Looking to the aforesaid, prayer made in this writ petition may not be granted.

6. I have considered the submissions made by learned counsel and scanned the matters carefully.

7. The controversy involved in the present matters is in reference to the interpretation of Memorandum dated 12.9.2008. As per the aforesaid Memorandum, petitioners are entitled for revision of pension. Para 5 of the said Memorandum is material, thus quoted hereunder for ready reference:

5(ii) The consolidated pension (treated as a final "Basic Pension") as on 1.9.2006 of pre-1.9.2006 pensioner shall not be lower than 50% of sum of the minimum pay of the post in the running pay band plus grade pay introduced w.e.f. 1.9.2006 corresponding to the pre-revised pay scale of the post from which pensioner had retired, subject to the condition that the existing provisions in the rules governing qualifying service for grant of pension and minimum pension shall continue to be operative.

8. Perusal of para 5(i) of the Memorandum dated 12th September, 2008 shows that consolidated pension of the petitioners should not be lower than 50% of the sum of minimum pay of the post in running pay band plus grade pay introduced w.e.f. 1.9.2006. It would be corresponding to the pre-revised pay scale of the post from which petitioners had retired.

9. It is not in dispute that all the petitioners retired from the post of Lecturer/Librarian and were extended benefit of selection scale while working on the post of Lecturer, thus they were retired from the existing pay scale of Rs. 12000-18300. The question now comes as to what should be their corresponding pay scale for re-fixation of pension. The aforesaid controversy arose on account of two pay scales corresponding to the existing pay scale of Rs. 12000-18300. The running pay band of existing pay scale is Rs. 15600-39100 and also 37400-67000, which is clearly coming out from the Schedule-I appended to the Rules of 2009. For ready reference, item No. 3 of the said Schedule is quoted hereunder:

10. Perusal of the table quoted above shows that Lecturer (Selection Scale) are now provided two pay scales referred to above. Similar provision exists for librarian. The pay band of Rs. 15600-39100 is admissible to those, who have not completed three years of service in the existing pay scale as on 1.1.2006 and for remaining, who have completed required three years service in the existing pay scale, the pay band is Rs. 37400-67000.

11. Looking to the aforesaid, the Lecturer/Librarian (Selection Scale), who have completed three years of service as on 1.1.2006 are entitled for the pay band of Rs. 37400-67000. Taking note of the aforesaid, the petitioners, who have completed three years of service in the existing pay scale, after getting selection scale, as on 1.1.2006 itself, are entitled for revision of pension after noticing the aforesaid pay band of Rs. 37400-67000.

12. To clarify the aforesaid, the interpretation of para 5 of the Memorandum dated 12th September, 2008 is to the effect that corresponding pay scale of the existing pay scale would be different for Lecturer/Librarian (Selection Scale) who have completed three years of service in the selection scale as on 1.1.2006, they

would be entitled for fixation of pension in the pay scale of 37400-67000.

13. Accordingly, the respondents are directed to re-fix the pension of all the petitioners after taking note of the para 5 of the Memorandum dated 12th September, 2008. Accordingly, pay scale for those, who have completed three years of service as Lecturer/Librarian (Selection Scale) as on 1.1.2006 would be refixed for pension in the pay band of Rs. 37400-67000 and for others, who failed to complete three years of service as Lecturer/Librarian (Selection Scale) as on 1.1.2006, corresponding pay band would be of Rs. 15600-39100. Taking aforesaid pay band, the pension of the petitioners may be revised but benefit arising of it would be admissible to them w.e.f. 01st April, 2008, as even agreed by the counsel for the petitioners. The arrears of pension may accordingly, be determined as be paid to the petitioners after re-fixation of their pension as directed above.

14. The respondents are directed to comply with the aforesaid judgment within a period of three months from the date of receipt of certified copy of this order. With the aforesaid directions and observation, the writ petitions are allowed so as the stay applications.