
(2013) 10 MP CK 0115
In the Madhya Pradesh High Court
Case No : Writ Petition No. 13012 of 2013

S.P. Dakshy

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 21-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0115

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : S.R. Tamrakar, for the Appellant;

Final Decision : Disposed Off

Judgement

Rajendra Menon, J.—Heard. Admit. Issue notice. Shri Rahul Jain, learned Dy. Advocate General accepts notice for Respondents/State.

2. Heard finally with the consent of learned counsel for the parties.

3. It is conceded at Bar that matter is covered by the decision of this Court rendered in W.P.S. No. 10591/2004 and other connected matters, decided on 14.10.2004, in which following order was passed:-

Petitioner in this writ petition has prayed for the relief on the parity with the Govt. Teacher. Petitioner is working as an employee in Govt. aided Institution. Petitioner has claimed the benefit of directing the respondents to ensure full payment of salary. Further direction is sought to give benefit of 5th Pay Commission w.e.f. 1.1.1996 and same rate of Dearness Allowance and House Rent Allowance.

Matter has been dealt with by this Court in number of decisions and direction has been issued to the respondents to give the benefit of the similar pay scale at par with the corresponding categories of employees in the Govt. Schools. The School in question is affiliated to the Board of Secondary Education. The Regulation 73 of Board of Secondary Education reads as under:-

Regulation 73:

The scale of pay of the staff in Educational Institution which are in receipt of Government Grant shall not be less than those sanctioned for the corresponding staff in Government Institution.

In the case of Educational Institution which are not aided there shall be scale of pay the minimum of which shall not be less than that in Govt. Educational Institution.

Rule 33 of the revised Grant-in-aid rules reads thus:-

Rule-33

The scale of pay of the Teachers including head of the institution and other employees of an Educational Institution which is in receipt of Government Grant shall be in accordance with those sanctioned for the corresponding categories of employees in Government Educational Institution." M.P. Ashaskiya Shikshan Sansthan (Adhyapakon Tatha Anya Karmachariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978, defines the salary thus:-

2(j) Pay and dearness allowance payable to a teacher or employee

The definition of salary has been amended by amendment Act 26/2. The amended definition is quoted below:-

Pay and other allowance payable to the teachers or employee as may be defined by the Institution.

As the School is affiliated with the Board of Secondary Education, similar pay scale has to be given. In W.P.S. No. 6006/2001-Kundan Singh Parihar Vs. State of M.P. & Ors, this Court has granted relief to the petitioner of similar pay scale, same rate of Dearness Allowance and House Rest Allowance. In W.P.S. No. 1841/2001-Indore Regional Shikshak Karmachari Sangh Vs. State of M.P., decided on 18.11.2003, similar pay scale, dearness allowance and house rent allowance from 1.1.1996 to 31.3.1996 was granted, which was the prayer made in the said writ petition on the ground of parity. In M.P. No. 862/1990-Madhya Pradesh Ashaskuya Mahavidyalayin Ashaikshinik Karmachari Sangh Vs. State of MP & Ors., decided on 2.1.2000, same scale of pay, dearness allowance and addl. Dearness allowance was imposed. In W.P.S. No. 2029/2000-V.V. Asthana & Ors. Vs. State of M.P. & Ors., decided on 29.1.2003, benefit of similar pay scale has been extended. L.P.A. No. 48/2003 against the decision of V.V. Asthana (Supra) was dismissed by the Division Bench of this Court on 16.6.2003. In W.P. No. 2013/2000 Prof. R.K. Malviya & Ors. Vs. State of M.P. & Ors. Writ petitions, similar direction has been issued. In W.P. No. 227/2001 R.P. Rai & Ors. Vs. State of M.P. & Ors., decided on 7.5.2004, decision rendered in V.V. Asthana (Supra) has been followed.

In W.P. No. 1902/2003-Kanchan Kumar Adhamane & Ors. Vs. State of M.P. & Ors., this Court granted same relief on consideration of definition of salary, Rule 33(1)

of Revised Grant-in-Aid Rules, Regulation 65 framed by the Board of Secondary Education and on consideration of the decision of Suresh Kumar Dwivedi and Others Vs. State of Madhya Pradesh and Others, , which was remitted by the Supreme Court and decided afresh by the Division Bench on 18.10.1994 against which SLP No. 920/1995 was dismissed by the Apex Court. The decision of the Apex Court in Frank Anthony Public School Employees" Association Vs. Union of India (UOI) and Others, ; Haryana State Adhyapak Sangh and Others Vs. State of Haryana and Others, and Haryana State Adhyapak Sangh and Others Vs. State of Haryana and others, ; State of Haryana and others Vs. Rajpal Sharma and others, ; The Chandigarh Administration and Others Vs. Mrs. Rajni Vali and Others, ; State of Haryana and Another Vs. Ram Chander and Another, ; State of Maharashtra Vs. Manubhai Pragaji Vashi and others, , were considered. This Court has laid down thus:-

7. Thus, in view of the above discussion, it is clear that the teachers of the non-government institutions are entitled for the similar pay scale and dearness allowance as is being paid to the government schools of the corresponding category are entitled for the same benefits. Let the arrears be worked out and payment be made within six months. The liability of the State of M.P. and the Management shall be as per the Scheme of grant-in-aid and the final order which may be passed as to scheme of grant-in-aid by the Apex Court as to the extent of the liability, but, the payment has to be made as per prevailing rate of grant-in-aid time to time.

Number of petitions are being received. Respondents are expected to apply the law equally to all the similarly situated employees. Petitioners have to be treated similarly in the light of the directions issued in the above writ petitions. With the aforesaid direction, writ petition is disposed of.

In view of the above, this writ petition is also disposed of