

**(2010) 11 SHI CK 0255**  
**In the High Court Of Himachal Pradesh**  
**Case No : C.W.P. (T) No. 4828 of 2008**

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|-----------------------------------|------------|
| Subhash Chander Dohroo and Others | APPELLANT  |
| Vs                                |            |
| H.P. University and Another       | RESPONDENT |

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**Date of Decision :** 03-11-2010

**Acts Referred:**

**Citation :** (2010) 11 SHI CK 0255

**Hon'ble Judges :** Deepak Gupta, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Deepak Gupta, J.—The petitioners, who at the relevant time were the employees of the H.P. University, had earlier filed writ petition being CWP No. 827 of 1992 which was disposed of on 22.09.1997 on the ground that this Court had no jurisdiction to entertain the matter and the petitioners were directed to approach the H.P. State Administrative Tribunal. Thereafter the petitioners filed O.A. No. 49 of 1998 before the erstwhile Tribunal. After the abolition of the Tribunal this original application has been transferred to this Court in terms of the Himachal Pradesh Administrative Tribunal (Transfer of Decided and Pending Cases and Applications) Act, 2008, and now registered as CWP(T) No. 4828 of 2008.

2. The undisputed facts are that the petitioners were employees of the respondent-University. The State of H.P. granted selection grade to its employees. The University's employees also took up the matter and prayed that selection grade be granted to them. The University accepted the prayer of its employees and the Executive Council of the University vide its decision dated 26.4.1977 was pleased to grant of selection grade for various posts, subject to the condition that it would be admissible to 20% of the permanent posts. Other conditions as applicable with the Government were to continue with which we are not concerned. The fact is that the Executive Council of the H.P. University vide resolution No. 6 in its meeting held in August, 1979 was pleased to grant selection grade to the petitioners w.e.f the year 1977.

3. It would be pertinent to mention that w.e.f.1.11.1978 the H.P. Krishi Vishwa Vidyalaya came into existence. The employees of the Agriculture complex of the H.P. University were allocated to the H.P. Krishi Vishwa Vidyalaya on 1.11.1978. Undisputably till 31.10.1978 these employees were part and parcel of the H.P. University. However, by the time the orders for grant of selection grade were passed in the year 1979 these employees had become employees of the H.P. Krishi Vishwa Vidyalaya. The employees of the H.P. University who were sent to the H.P. Krishi Vishwa Vidyalaya were admittedly not taken into consideration while considering the matter of grant of selection grade. These employees, therefore, agitated the matter and submitted that they were part and parcel of the H.P. University prior to 1.11.1978 and since the selection grades were granted w.e.f. the year 1977 not only their posts should be taken into consideration while calculating the number of posts eligible for grant of selection grade but their names should also be considered.

4. Thereafter, the Secretary(Agriculture) who probably was in-charge of the H.P. Krishi Vishwa Vidyalaya looked into the matter and correspondence issued between the Secretary(Agriculture) and the H.P. University wherein it was admitted by the University that those employees of the H.P. University who had been transferred to the H.P. Krishi Vishwa Vidyalaya were not considered for grant of selection grade even if the selection grade was to be released prior to 1.11.1978. Thereafter, the Secretary(Agriculture) sent a letter dated 10.6.1983 to the University ordering the setting-aside of the grant of selection grade by the H.P. University which had been effected prior to 1.11.1978 and further directed that selection grade be given w.e.f.1.1.1978 on the basis of the joint seniority as it existed on the said date. The petitioners obviously were not satisfied and agitated against this action of the Secretary(Agriculture). One of the arguments was that the Secretary(Agriculture) had no authority to issue such direction. Even if the Secretary(Agriculture) had no jurisdiction to issue such directions the fact of the matter is that the Executive Council of the H.P. University in its meeting held on 18.1.1994 took the following decision in the matter:

After careful consideration the following decisions were taken:

(1) The decision contained in H.P. Government Letter No. PER(AP-II)-B(11)-1/76 dated 1.3.1977 in which minimum length of service has been imposed to be implemented in letter and spirit.

(2) It was also decided that selection grades to the non-teaching employees be strictly given on the basis of the joint cadres as on 1.1.1978 as advised by the Secretary(Agriculture) vide letter No. Agr. A-10(1)/79 dated 10.6.1983.

(3) No recoveries be made of the past(prior to 18.8.1984) in order to avoid hardship to the employees concerned.

(4) After implementing the Government decision the existing pay of the employees as they are drawing today(18.8.1984) should be frozen at every existing level and whenever they are entitled to the grant of selection grade in

accordance with the Government decision/conditions further process to release the selection grade should start.

(5) In case the present salary falls beyond the span of the scale of the same should be treated as personal pay to be adjusted in future.

5. The result of this decision was that even those employees like the petitioners who were not eligible for grant of selection grade were not really adversely affected as no recovery were ordered to be made from them. Their basic pay was also not reduced and made personal to them. The only adverse effect was that they would not earn any increments till the scale which they attained was reached in normal course. The petitioners and other employees kept agitating against this decision of the University on various grounds. Finally in its meeting held on 1.6.1987 the University decided to constitute a Committee to consider the grievance of the employees like the petitioners. The Committee submitted its report which by majority decision rejected the contention of the employees and recommended that the earlier decision dated 18.8.1984 be maintained. The recommendations of the Committee were accepted again by the Executive Council in its meeting held on 19.5.1990. Thereafter, the present litigation started.

6. I have given my careful consideration to the matter. There is no manner of doubt that prior to 1.11.1978 the employees of the Agriculture Complex of the H.P. University were part and parcel of this University. Therefore, when the cases for grant of Selection grade were considered even after 1.11.1978 which were to have affect prior to the said date the rights of those employees of the University who were working in the agriculture complex could not have been ignored. It may be true that when the decision to grant selection grade was taken these persons were not the employees of the University but the fact is that they were an integral part of the H.P. University on the dates when the benefit of grant of selection grade was given to the petitioners. Merely because the petitioners continued in the University did not mean that those employees whose services were transferred to the H.P. Krishi Vishwa Vidyalaya w.e.f. 1.11.1978 were not to be taken into consideration for grant of selection grade. Therefore, there is no merit in the case of the petitioners. In fact, in my view the University has been very fair to the petitioners and has by itself taken a decision not to recover any amount from the petitioners and has also protected their pay till they attained this pay scale in normal course.

7. In view of the above discussion, the petition is dismissed with no order as to costs.