

(2000) 05 GAU CK 0038
In the Gauhati High Court
Case No : Civil Rule No. 662 of 1997

Thangjam Yaima Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 08-05-2000

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2001) 2 GLT 637

Hon'ble Judges : N.S. Singh, J

Bench : Single Bench

Advocate : H. Kumarjit Singh, for the Appellant; R.K. Jayanta Singh, for the Respondent

Final Decision : Allowed

Judgement

N.S. Singh, J.—In *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, the Apex Court held thus:

"What Article 14 strikes at is arbitrariness because an action that is arbitrary, must necessarily involve negation of equality. The doctrine of classification which is involved by the courts is not paraphrase of Article 14 nor is it the objective and end of that Article. It is merely a judicial formula for determining whether the legislative or executive action in question is arbitrary and therefore constituting denial of equality. If the classification is not reasonable and does not satisfy the two conditions referred to above, the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached. Wherever therefore, there is arbitrariness in State action, whether it be of the Legislature or of the executive or of an "authority" under Article 12, Article 14 immediately springs into action and strikes down such State action."

2. Now, in the instant case what this court is to see is that whether there is materials on records for establishing the fact that the action of the State respondents upon the present writ petitioner, namely, Th. Yaima Singh, amounts

to arbitrariness which constitutes denial of equality or not.

3. Supporting the case of the petitioner Mr. N. Kumarjit Singh, the learned counsel submitted that the petitioner was appointed as Hindi Graduate Teacher w.e.f. 1.4.1964 and he retired from service, w.e.f. 31st October, 1998 on attaining the age of superannuation. While the petitioner was in service, Revision of Pay Rules, 1982 (hereinafter referred to as ROP 1982) came into force w.e.f. 31.3.1982 and as such the petitioner was eligible for consideration for selection grade scale w.e.f. 1.4.1982 by virtue of the related ROP 1982 and apart from it this court by a judgment and order dated 22.2.1993 passed in C.R. No.459 of 1983 filed by (The All Manipur Hindi Teachers" Assn. Manipur and Anr.) directed the State respondents to fix the scale of pay of the petitioners i.e. Hindi Graduate Teachers at least at par with that of the Graduate teachers in respect of their revised scale of pay i.e. ROP 1982 with effect from the date of Graduate Teachers were getting the revised scale of pay. At this stage Mr. N. Kumarjit Singh has drawn my attention to the related order of this court dated 22.2,1993 at Annexure-A/6. I have perused the same. It is also argued by the learned counsel for the petitioner that despite his approach to the competent authority for affording the benefits, namely, selection grade scale of Rs.995-40-1435/- the authority concerned did not consider the matter and did not pay heed too to the request and prayer of the writ petitioner. Mr. Kumarjit the learned counsel for the petitioner also argued that even the junior Hindi Graduate Teacher, namely Shri L. Dorendra Roy who was appointed as Graduate Teacher only on 17.12.1965 and served in the same school, namely, Lamalai High School, has been given the selection grade scale as per the ROP 1982. but the case of the writ petitioner has been left out by the respondents/authority concerned without any justification. Supporting all the statements so far made by the petitioner in his writ petition, the petitioner is seeking for a direction to the respondents to consider the case of the petitioner for allowing him to enjoy the selection grade scale of Graduate Teacher of Rs. 995-40-1435 with effect from 31.3.1982 under the ROP 1982. The case of the petitioner is contested by the respondents by filing counter affidavit. Mr. R.K. Jayanta Singh, learned Addl. Govt. Advocate contends that both the teachers, namely. N. Ningthemjao and L. Dorendra Roy who were initially appointed as Graduate Teachers have been enjoying graduate scale of pay. and after attaining their requisite qualifications, they have been given/afforded the selection grade scale as per ROP 1982, whereas the writ petitioner was enjoying the scale of pay of Under-graduate teacher initially and thereafter by virtue of the related ROP time scale of pay of untrained Graduate Hindi Teacher and trained Graduate Hindi Teachers has been provided in the said ROP of 1982, in other words, for the untrained graduate teacher scale of Rs.575/1380 and for the trained Graduate Hindi Teacher scale of Rs.575-1380 have been provided in the ROP of 1982 and as such the petitioner cannot claim for time scale of pay either for Graduate Teacher or the trained Graduate Teacher for which time scale of Rs.640-1410/- has been proved in the related ROP of 1982. Mr. R.K. Jayanta Singh. learned Addl. Government Advocate continued his argument on the point

that these two teachers, namely N. Ningthemjao and L. Dorendra Roy were initially appointed as Graduate Teachers and as such their cases cannot be equated with the case of the present writ petition.

4. It is not disputed by the parties that this court by the judgment and order dated 22.2.1993 passed in C.R.No. 159/83 Filed by the All Manipur Hindi Teachers" Assn. petitioner v. State of Manipur, directed the State respondents to fix the scale of pay of the petitioners, i. e., Hindi Graduate Teachers at least on a par with that of the Graduate Teachers in respect of their revised scale of pay with effect from the date for which the Graduate Teachers were getting the revised scale of pay, i.e., ROP 1982. In this regard, the present writ petitioner made a specific statement, rather, took a specific plea at paragraph 3 of the rejoinder/reply affidavit that the said judgment and order dated 22.2.1993 was communicated to the State respondents including the respondent No.3 (the Director of Education(S), Govt. of Manipur) and the said judgment and order has already been implemented. In other words, those Hindi Graduate Teachers have been afforded the revised scale of pay as per the ROP, 1982 and this specific statement is not at all controverted or denied by the State respondents at no point of time even in the additional affidavit filed by the respondents. Replying to this statement and plea of the petitioner the State respondents simply state that at the time of passing the related court's order dated 22.2.1993, ROP 1982 had already been lapsed and ROP 1990 and modification of which came into force w.e.f. 1st Jan. 1986 and by virtue of the ROP 1990 the scale of Graduate Teachers are provided as Rs. 1400-2300 and senior scale of Graduate Teachers are provided as Rs. 1640-3425 after 15 (fifteen) years of service in the grade, and Selection grade Scale of Rs. 2000-3425 at 10% of the numbers in senior scale after 12 years in senior scale are provided. It is also an admitted position that no appeal was ever preferred by the State respondents against the judgment and order dated 22.2.1993 passed in C.R.No. 159/83. if the benefits of selection grade scale of Graduate Teacher is once afforded to the trained Graduate Hindi Teachers by virtue of the related judgment of 22.2.1993, the teacher's who is/are similarly situated with those teachers shall also be given the same benefits and the same cannot be denied by the executive action of the State respondents and if such denial is made out, then it is a denial of equality and such action is not permissible and at such stage Article 14 of the Constitution will sprint into action and well strike down such executive action of the State respondents. It is a good common sense. and it cannot be too technical and in such a case the law should be interpreted not in rigidity and it should flexible so as to enable this Court to render justice to all concerned. The petitioner in the instant case is retired person who has been urging for same benefits since 1997 by filing a writ petition before this Court while he was in service, but even after retirement, he is not getting any sort of relief from the ends of the State respondents. It is merely judicial formula for determining whether the present action of the State respondents in question is arbitrary and in the instant case this court hereby solves this Judicial formula, thus, holding

that the present executive action of the State respondents is arbitrary amounting to denial of equality amongst the equals. This court need not go more into depth as the petitioner could make out and satisfy the court that the petitioner is aggrieved by the present action of the State respondents.

5. For the reasons, observation and directions made above the writ petitioner should be given the benefit of the related judgment and order dated 22.2.1993 passed by this court in C.R. No. 159/83 thus allowing the petitioner to get the benefits of Selection Grade Graduate Teacher scale of Rs. 995-40 1435 w.e.f. 31.3.1992 as per the related ROP 1982 as the petitioner had possessed the required service of 15(fifteen) years. In other words, he had put in 15 years service as a trained Hindi Graduate Teacher. It is made clear that the benefit mentioned above shall be afforded by the State respondents/ competent authorities to the writ petitioner within a period of 3(three) months from the date of receipt of this judgment and that the respondents shall also afford the corresponding time scale of pay of selection grade as per the ROP 1990. The petitioner shall obtain a certified copy of the order and submit the same before the competent authority for doing the needful in the matter as per the order of this court.

6. In the result, this writ petition is allowed, but no order as to costs.