
(1982) 07 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : Letters Patent Appeal No. 1 of 1982

The State of Haryana and Another

APPELLANT

Vs

Jagdish Singh and Others

RESPONDENT

Date of Decision : 28-07-1982

Acts Referred:

Citation : (1982) 07 P&H CK 0003

Hon'ble Judges : S.S. Sandhawalia, J; J.M. Tandon, J

Bench : Division Bench

Advocate : Harbhagwan Singh, A.G. Haryana, for the Appellant; J.L. Gupta, for the Respondent

Final Decision : Allowed

Judgement

J.M. Tandon, J.—Jagdish Singh and Ors. (respondents) are Classical and Vernacular teachers. Their cadre, which consists of teachers teaching various subjects including Sanskrit, is governed by Educational Service Class-III School Cadre Rules, 1955. The Government of India set up Kothari Commission to go into the questions relating to education including revision of pay scales of various categories of teachers. The report submitted by the Commission to the Government of India was forwarded to all the States for information. In the light of the recommendations of the Kothari Commission, which were otherwise not binding, the State of Haryana revised the pay scale of the teachers from Rs. 60-120 to Rs. 125 - 250 with effect from 1st December, 1967. The Ministry of Education, Government of India, vide their letter dated 23rd June, 1961 adopted the Degree of Shastri equivalent to Bachelor of Arts Degree of the Punjab University. The Government of Haryana vide their letter dated 4th May, 1968 decided to treat the Shastris with O.T. Qualification at par with trained graduates i.e. B.A./B. Sc. with B. T /B. Ed. The Shastris with O.T. qualification like trained graduates were allowed a higher scale of pay i.e. Rs. 220-400 for 85 per cent of posts and Rs. 400-500 for the remaining 15 per cent of the posts. The Respondents claimed that the action of the Government in giving the benefit

of the higher scale of pay of Rs 200-400 and Rs. 400-500 only to Sanskrit teachers and not revising the pay-scale of all Classical and Vernacular Teachers, including them, is violative of Article 16 of the Constitution and as such is illegal unjust, unfair and unconstitutional. In Civil Writ Petition No. 2115 of 1972 filed by them they prayed for a writ of mandamus against the Appellants directing them to treat all the Classical and Vernacular Teachers at par with the Sanskrit Teachers for giving them (the Respondents) the benefit of the higher scale of pay. The Civil Writ Petition having been allowed by a learned Single judge vide order dated 22nd October, 1981, the Appellant have filed the present letters patent appeal.

2. The learned Advocate General appearing for the Appellants, has argued that the Sanskrit teachers with Shastri and O.T. qualification constitute a distinct class and the fact that they have been treated differently in the matter of revision of pay-scale, is not violative of Article 16 of the Constitution. The argument proceeds that the Government of India has accepted to treat Shastri Degree at par with Bachelor of Arts Degree. The Government of Haryana vide their letter dated 4th May, 1908 has decided to treat the Shastri with O.T. qualification at par with trained graduates i.e. B.A./B. Sc with B.T./B Ed. It is under these circumstances that the Government has allowed the revised pay-scale of Rs. 220-400 and 400-500 to Shastris with O.T. qualification, which is also allowed to trained graduates i.e. B.A./B. Sc. with B.T./B. Ed. qualification.

3. The contention of the Learned Counsel for the Respondents is that the Sanskrit teachers with Shastri and O.T. qualification as also all the remaining Classical and Vernacular teachers, including the Respondents, constitute one cadre. The Government cannot treat the teachers with Shastri and O.T. qualification, who teach Sanskrit, as a separate class in the same cadre. The action of the Government in treating the Sanskrit teachers with Shastri and O.T. qualification as a separate class for allowing them better pay-scale is violative of Article 16 of the Constitution, with the result that all the Classical and Vernacular teachers, including the Respondents, are entitled to the revised pay-scale, like the Sanskrit teachers.

4. A similar question arose in *The State of Mysore and Anr. v. P. Narasing Rao* 1967 S.L.R. 885. The point for consideration in that case was whether the creation of two pay-scales of teachers in the new Mysore State. Who were doing the same kind of work, amounted to discrimination which violated the provisions of Articles 14 and 16 of the Constitution. Their Lordships of the Supreme Court opined that higher educational qualifications such as success in the S.S. L.C. examination are relevant considerations for fixing a higher pay scale for teachers who have passed the S.S.L.C. examination and the classification of two grades of teachers with a higher pay scale and the other for non-matriculate teachers with a lower pay scale is not violative of Articles 14 or 16 of the Constitution. It was further held that it is open to the Government to consider also the general educational attainments of the candidates to give preference to candidates who

have better educational qualifications besides technical proficiency of a tracer. In *The State of Jammu and Kashmir Vs. Shri Triloki Nath Khosa and Others*, it was held that classification on the basis of educational qualifications made with view to achieving administrative efficiency cannot be said to rest on any fortuitous circumstances and one has always to bear in mind the facts and circumstances of the case in order to judge the validity of a classification.

5. The two authorities referred to above clearly lay down that a classification (even within the cadre) is permissible on the basis of educational qualifications and such classification is not per se violative of Articles 14 and 16 of the Constitution. The Learned Counsel for the Respondents has contended that their Lordships of the Supreme Court have taken a different view in *Mohammad Shujat Ali and Others Vs. Union of India (UOI) and Others*, and have distinguished *Triloki Nath Khosa's* case (supra) we are unable to agree with this contention. Their Lordships of the Supreme Court did notice *Triloki Nath Khosa's* case in *Mohammed Shujat Ali's* case (Supra) but neither distinguished it nor took a different view. It was held in *Mohammad Shujat Ali's* case (Supra) that the doctrine of reasonable classification recognises that the legislature may classify for the purpose of legislation but requires that the classification must be reasonable. It should ensure that persons or things similarly situated are all similarly treated. The measure of reasonableness of a classification is the degree of its success in treating similarly those similarly situated. The classification must be founded on an intelligible differentia which distinguishes certain persons or things that are grouped together from others and that differentia must have a rational relation to the object sought to be achieved by the legislation. It was also held that to permit discrimination based on educational attainments not obliged by the nature of the duties of the higher post is to stifle the social thrust of the equality. A rule of promotion which, while conceding that non-graduate Supervisors are also fit to be promoted as Assistant Engineers, reserves a higher quota of vacancies for promotion for graduate Supervisors as against non-graduate Supervisors, would clearly be calculated to destroy the guarantee of equal opportunity.

6. In *Mohammad Shujat Ali's* case (supra) the rule of promotion reserving higher quota of vacancies for promotion of graduate Supervisors as against non-graduate Supervisors, who were otherwise conceded to be fit for promotion as Assistant Engineers, was held to suffer from the vice of discrimination. In the instant case Sanskrit teachers holding Shastri with O.T. Qualification have been allowed the revised pay scale and not the other Classical and Vernacular teachers, who are not trained graduates. In Civil Appeal No. 2019 of 1972 (*Rampalit Vyakaran Acharya and Ors. v. Punjab University, Chandigarh* and another C.A. No. 2019 of 1972) decided on 22nd September, 1975 their Lordships of the Supreme Court examined the letter from the Government of India, Ministry of Education, issued in 1964, wherein Shastri qualification was treated equivalent to 3. A. Degree. Their Lordships observed:

It is significant to note from the letter of the Ministry of Education that Government is keen regarding development of Sanskrit in the Country and it has impressed upon all the Universities that they should employ at least one traditional Sanskrit Scholar and the Scholar so employed should enjoy the same status and pay scales as his counterparts trained on modern lines with equivalent degrees. "It goes on further to say "that the employment of traditional Sanskrit Pandits in High/Higher Secondary Schools/Colleges should also be given due encouragement. Teachers so employed should be treated on par with other teachers possessing equivalent qualifications of the general education set up." It is obvious that with a view to develop Sanskrit in the Country the Government desired to make the scales payable to Sanskrit teachers more lucrative. It is in this background that the Sanskrit teachers holding Shastri with O.T. qualification were treated at par with trained graduates i.e. B.A./B. Sc with B, T./B. Ed. qualification. The Sanskrit teachers with Shastri and O.T. qualification have been allowed the same scale of pay which is otherwise payable to the trained graduates. The classification made of the Sanskrit teachers with Shastri and O.T. qualifications cannot be held to be without any nexus with the object intended to be achieved. The Respondents are neither trained graduates nor are they Sanskrit teachers holding Shastri with O.T. qualification. It is thus clear that the Respondents cannot justifiably claim parity with the Sanskrit teachers holding Shastri with O.T. qualification. The Respondents, therefore, are not entitled to the same scale of pay which has been allowed to the Sanskrit teachers. The impugned order of the learned Single Judge in favour of the Respondents, wherein a contrary view has been taken, cannot be sustained.

7. In the result, the letters patent appeal is accepted, the impugned order of the learned Single Judge dated 22nd October, 1981 set aside and further C.W.P. 2115 of 1972 filed by the Respondents is dismissed with no order as to costs.

S.S. Sandhawalia, C.J.

8. I agree.